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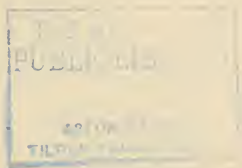
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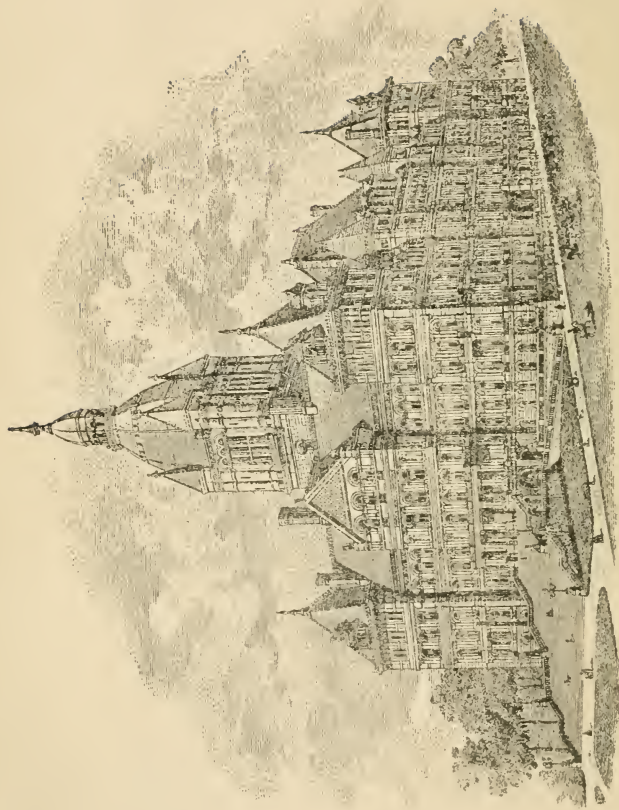


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THE GOVERNMENT OF THE
STATE OF NEW YORK

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THE CAPITOL AT ALBANY.

THE GOVERNMENT OF THE STATE OF NEW YORK

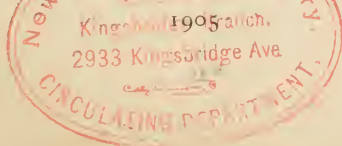
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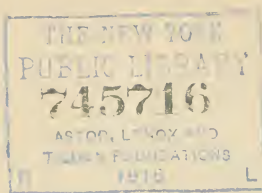
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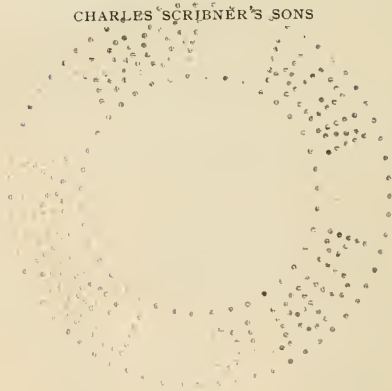
WITH MAPS

NEW YORK
CHARLES SCRIBNER'S SONS





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PREFACE.

IN the study of civics in our schools there is usually such strong emphasis laid on the National government that the student comes to think that the State government is of very little importance. This fact has led and is leading the public at large to regard the State as scarcely anything more than an administrative unit like the English county and the French department. Men of learning and prominence regard with equanimity the gradual encroachment of the National upon the State government. That men in general do not object to the increasing assumption of powers by the National government may be in part attributed to the training which they receive in the schools.

Whether such assumption of power is good or bad is of course debatable. No one will deny, however, that it is contrary to the spirit of our institutions. The reduction of our States to mere divisions for administrative purposes was something never contemplated by the most ardent Federalists. With the hope of counteracting in a measure the present tendency to aggrandize the importance of the National government I have aimed to bring before the student the exceedingly important part which our State government plays in our daily life.

Another object I have kept constantly in mind is to show the government in its actual working. For that reason at the end of each chapter are several paragraphs on actual conditions. These, following, as they do, the sketch of the machinery of government, are intended to show how prac-

tice differs from theory, and wherein we are successful and wherein we fail in carrying on our government.

On the political history of New York State I have given very little, because almost all that I could give here has already been covered in connection with the history of the United States which the pupil has already studied. Changes in institutions, however, have been noted in their proper places. I have also omitted from the text salaries of officials and other statistical matter. Such material is to be found in reference tables at the end of the book.

I am indebted to Mr. A. H. Sanford for permission to use at the ends of some of my chapters certain of the "suggestive questions," in his work on the "Government of Wisconsin."

NEW YORK CITY, November, 1905.

PROPERTY OF THE
CITY OF NEW YORK.

SUGGESTIONS TO TEACHERS.

THERE is a somewhat prevalent notion among teachers that the object of studying our local and State governments is to encourage local pride and patriotism. This, it is supposed, will make the student a better citizen. There is nothing, however, which is more erroneous. Such teaching leads the pupil to have wrong notions of the importance of his own locality, to have his perspective so distorted as to see only the good and none of the bad, and to make no effort to work for a change in the imperfect because he thinks it perfect. There is no worse citizenship than is expressed in the words: "We are all right." This blatant self-satisfaction with what we have is responsible for our "corrupt but contented" style of government.

Our most patriotic citizens are those who see the defects of our institutions, not those who sit with folded hands and think that democratic principles have brought the millennium. Because we teach our pupils to see wherein we have failed and are failing in carrying out these principles, it is not to be urged that we are teaching them to be unpatriotic. Patriotism is a matter of slow growth and takes care of itself without being taught. It is like love of one's mother—it needs no cultivation. The quality which we teach in our schools by the overemphasis which we lay on our perfections is "jingoism." With some this may pass for patriotism, but it is as different from that as day from night, and the less we have of it the better.

Another danger which the teacher of local government

must avoid is the spirit of narrow provincialism which unfortunately is altogether too common in this country. The silly but sometimes bitter rivalry which exists between some cities and States of our Union is at times directly traceable to school instruction. If we cannot get good citizenship except by vilifying or depreciating our neighbors, it is something we had better do without. Good citizenship is not narrow and provincial, but broad. It has the world for its teacher and from her it learns to borrow the good wherever that is to be found. If Germany has better municipal government than we have, it is our duty as good citizens to profit by her example, or at least to teach our children that the Germans manage their municipalities better than we.

It is not necessary, however, to "harp" on the bad qualities of our government all the time. There is a danger, in these days of newspaper exposures of political corruption, of the pupil getting to believe that all men connected with public life are guilty of wrongdoing simply because a few cases are brought to light. This must be guarded against and the pupil made to realize that by far the larger number of men in political life are honest and incorruptible. The points wherein we excel others may be brought out as well as those wherein we fail. Our present tendency, with our pupils at least, is to gloss over the latter and that is why we have to be on our guard.

From these few remarks it will be seen that the teacher of civics must know other governments—local and National—besides his own, must be a close reader of the newspapers and their editorials, and must be ready at all times to discuss present-day problems and politics as illustrating the actual working of the machinery of government as it is studied in the text. Teachers should by every means in their power encourage the pupils to read the best of our newspapers and to make scrap albums of clippings which relate to the sub-

ject under discussion. In conjunction with this should go the visits to legislative assemblies, interviews with local officers, leaders and active citizens, and reports from observation on the methods of conducting the business of some local department. The pupil should be made to see the government in its actual working as much as possible and to realize for himself how much or how little it differs from the theory.

A great deal of space has been given to cities. It is hoped that teachers will find it possible to give much more time to this division of our government than has hitherto been the case.

The suggestive questions at the close of chapters are not meant to be such as can be answered from a reading of the text. They are intended to make the pupil think, consult books outside the text and ask questions of men who are acquainted with the machinery of government. The teacher will be able to frame others of the same sort as the study of the various chapters progresses.

No "outlines" of chapters or of departments of government have been given. It was felt that the making of these was an exercise which should be left to the pupil.

The following short list of books will prove helpful:

ON METHOD.

MARTIN, G. H., *Hints on the Teaching of Civics.*

BOURNE, H. E., *The Teaching of History and Civics.*

NEW ENGLAND HIST. TEACHERS' ASSOCIATION, *Report of the Civics Committee.* (Soon to be published.)

REFERENCE LISTS FOR OUTSIDE READING.

HART, A. B., *Actual Government.* (List at heads of chapters.)

MOREY, W. C., *The Government of New York.* (List at heads of chapters.)

STATISTICAL MATERIAL.

- MURLIN, E. L., *The New York Red Book*. (Annually.)
SECRETARY OF STATE, *The Legislative Manual*. (Annually.)
ALMANACS OF THE NEW YORK CITY DAILY NEWSPAPERS:
American, Eagle, Tribune, World.

GOVERNMENT OF NEW YORK STATE.

- MOREY, W. C., *The Government of New York*.
Revised Statutes of New York State.

FOREIGN GOVERNMENTS.

- WILSON, WOODROW, *The State.*

CITY GOVERNMENT.

- SHAW, A., *Municipal Government in Continental Europe*.
SHAW, A., *Municipal Government in Great Britain*.
GOODNOW, F. J., *City Government in the United States*.

NEWSPAPERS FOR YOUNG PEOPLE.

- The Little Chronicle*, Chicago.
Current Events, Springfield, Mass.

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THE GOVERNMENT OF THE STATE OF NEW YORK.

CHAPTER I.

THE CONSTITUTION.

Importance of the State.—We have already spent a great deal of time and space on the study of the National government, but we must always remember that so far as our daily life is concerned the State government is far more important than the National. It is the State which decides on the form of government of our counties, towns, and villages, and grants charters to our cities. It is the State which through these local governments, or directly, makes provision for the public health and the public education of the citizens; establishes asylums, prisons, and houses of correction; manages the public lands, takes care of the forests, fish and game, promotes agriculture, regulates labor and domestic commerce; builds and cares for canals, and grant charters to and controls corporations. Among the most important of the latter, which affect us directly, are gas companies, street and steam railway corporations, and food-product concerns. When we see that the State has so many activities, we realize why it is so very important to understand thoroughly the government of the State.

Constitutions of New York.—The details of the form of government of our State—sometimes called the Empire State because of its great wealth and population—is determined, like the governments of the United States and the other States, by a document known as the Constitution. We have had in our history four different State constitutions. The first was made in 1777, the second in 1821, the third in 1846, and the last in 1894. Why we have had so many when the National government has had only one during the same period of time will become clear if we carefully consider the matter. We saw (Chapter XVIII) how difficult it was to change the Federal Constitution and how it was “stretched” (p. 109) in order to include powers or functions which were not expressly stated in the document itself. It has not been necessary to do this with our State Constitution, because it has usually been an easy matter to get a wholly new Constitution or to change the one which we had. This is true for the following reasons: (1) Having the people of one State instead of many States to deal with it was an easy matter to find out whether they wanted a constitutional convention called in order to draft a new Constitution. (2) The method of amendment has been simpler. Though the Constitution of 1777 made no provision for amendments, it was possible for the Legislature by a mere majority vote to call a convention for the purpose of changing the Constitution. By the Constitution of 1821 it was made possible to add an amendment to the Constitution if a mere majority of each house of the Legislature voted for it and two-thirds of each house of the subsequent Legislature approved of it. (3) Being in a small area, the people were more likely to be nearly

of one mind as to any change which was thought desirable.

Constitution of 1777.—This Constitution, like the constitutions of the other States adopted at about the same time, was drawn up at the suggestion of the Continental Congress, then in session at Philadelphia (May 10, 1776). It did not attempt to create new institutions, but provided for those to which the people had been used during the previous history of the colony. Provision was thus made for a governor, a lieutenant governor, executive councils, a legislature of two houses, all chosen by the people, and a system of courts the judges of which were to be appointed. Under the colonial government no one had been allowed to vote unless he owned a certain amount of property, and this restriction remained in force in this Constitution. To protect the citizen in the enjoyment of what he considered his fundamental rights certain clauses defining these were put into the Constitution. These came to be called the "Bill of Rights."

This Constitution, like the later Federal Constitution, was short, and barely outlined the form of government. The form of government has remained the same throughout the history of the State, but the document itself has been increased so much in length that it is more like a book of laws than a definition of the various departments of government and their powers.

Under this Constitution the power which had belonged to the King passed to the people. They had a strong feeling at this time against tyranny and "one-man power," and hence they made the authority of the office of governor as weak as possible, and put the control of

the government largely into the hands of the Legislature. The governor did not have the powers of veto and appointment. These were given to two special councils of which the governor, though a member, was only one among several other members. Even a veto made by a council could be overborne by the Legislature. The judges were appointed to office by one of these councils.

Constitution of 1821.—In the period between 1777 and 1821 the people experienced a change of feeling. They no longer had such a dread of tyranny as they had had when George III. ruled them, and they were more democratic in their attitude toward the privilege of voting. Several disputes having arisen under the Constitution of 1777 which could not be settled, a convention was called and drew up the Constitution of 1821. In accord with the changed feelings mentioned above, the restrictions on the privilege of voting were made less severe, the power of veto was taken from the council and put into the hands of the governor, subject of course to the power of the Legislature to pass a bill over his veto, and the power of appointment to such offices as those of the secretary of state, the treasurer, the attorney-general was taken away from the council and put into the hands of the Legislature. The appointment of judges, however, was invested with the governor, subject to the approval of the upper house of the Legislature. Thus by this Constitution the power of the governor was increased and the Legislature gained additional prerogatives in the matter of appointments.

Constitution of 1846.—Between 1821 and 1846 a great

wave of democracy swept over our country, New York included. The people showed themselves desirous of getting more and more power into their own hands, and of restricting the powers of both the governor and the Legislature. They no longer trusted the men whom they chose to represent them. By an amendment to the Constitution of 1821, passed in 1826, all property qualifications for the privilege of voting were swept away, and in 1845 another amendment was passed making it unnecessary for a man to have property in order to hold office. The result of these amendments was that the convention of 1846 called for revising the Constitution was overwhelmingly Democratic. The people had turned out in force to choose delegates to a convention which would give them the power. Thus by the Constitution of 1846 the power of appointing such officers as the secretary of state, the treasurer, and the attorney-general was taken away from the Legislature, and the power of appointing judges was taken away from the governor. Henceforth executive officers like those mentioned above and the judges were to be elected directly by the people. Heretofore the Legislature had been permitted to pass laws on almost all subjects, but in the Constitution of 1846 a list of subjects was put down on which the Legislature could not legislate. These restrictions, which relate to a variety of subjects, such as lotteries, divorces, charters, and State debts, have tended to increase as new constitutions are made or amended. With its powers in legislation more and more diminished the Legislature has declined in importance, and the people have used their right of revising and amending the Constitution as a sort of means of legislating directly for themselves.

Constitution of 1894.—By 1866 the need of a revision of the Constitution was again felt, and a convention was called in that year. Its work was unsatisfactory and its proposals were rejected by the people. Between that date and 1894 the people had grown to distrust the Legislature more and more and to place more confidence in the governor. They came to regard him and his veto as the bulwark against hasty and bad law-making by the Legislature. When, therefore, a convention met in 1894 to revise the Constitution there was an observable tendency to increase the governor's authority and to put more restrictions on the Legislature. The most important of these was that aimed against special laws for individual cities. In order to prevent it the Constitution divided the cities of the State into three classes according to their population. Then any law that may be passed affects all the cities of any one class and not simply a single city. Other clauses were added to the Constitution, making it the longest we have as yet had. As this Constitution of 1894 is that under which we are now living, we shall turn to its consideration.

SUGGESTIVE QUESTIONS.

1. Make a list of the things which you or your parents do day by day which are affected by (1) National laws, (2) State laws.
2. What is the difference between a legislature and a convention?
3. Sum up the advantages and disadvantages of having the people legislate directly by revising or amending the Constitution.
4. Find out the number of pages in the Federal Constitution and compare it with the number of pages in the State constitutions of 1777, 1821, 1846, 1894. (See Poore, Charters and Constitutions.)

CHAPTER II.

CONSTITUTIONAL RIGHTS.

Natural Rights.—In the eighteenth century, at the time when our first Constitution was made, the people generally believed that all early government began in what they called a “social compact.” According to that all men were in a state of nature something similar to the state in which we found the savages when we first came to this country. They thought that men all came together and decided to have a government. In order to do this men had to give up certain rights which they had all enjoyed as individuals before they decided to have a government. There were some rights, however, which were regarded as “inalienable”—that is, they could not be surrendered or given up by anybody. These rights were life, liberty, and the pursuit of happiness. It was thus that the people of the eighteenth century believed that government was a “necessary evil.” They thought that man had more rights in a “state of nature,” as they called it, than he had when governments were formed. Nowadays we know that people were all wrong in believing this. We know that government was a matter of very slow growth and did not come from any “social compact.” We know further that what rights we enjoy were made possible to us by an organized government. Before government grew up there were no rights which anybody could call his own. He was in danger of being killed,

of having his property taken away from him, or of being made a slave by somebody who was stronger than he. As there was no government, there was no one to whom he could look for protection. What good were his rights if he could not enjoy them? We know now that what rights we have are made possible to us by the government. We also know that if all the people, forming what is technically known as the "social body," wish to deprive individuals of the right of holding private property, they may do so. Government is only the machine which the people use to do their will. They may give to the government the power to do anything that they wish it to do, or they may deprive it of any power which they do not wish it to exercise. The powers which the government of this State is or is not to have are carefully laid down in the Constitution.

Divisions of the Constitution.—Our State Constitution, like the Federal Constitution, opens with a Preamble. This is: "WE, THE PEOPLE of the State of New York, grateful to Almighty God for our Freedom, in order to secure its blessings, DO ESTABLISH THIS CONSTITUTION." The Constitution is divided into fourteen articles, and these in turn are divided into sections, but for purposes of convenience we may group them all under four chief divisions. The first of these we will call the "Bill of Rights," because in it are placed certain rights which the people have declared that the government cannot take away from the individual (Articles I, II). The second division has to do with the "departments of government"—the Legislature, the Executive, and the Judiciary (Articles III, IV, V, VI). The third em-

braces powers other than those over individual rights which the people have denied to the government, or subjects on which they have chosen to legislate directly by placing them in the Constitution (Articles VII, VIII, IX, X, XI, XII, XIII). The fourth and last division deals with amendments to the Constitution (Articles XIV, XV).

Bill of Rights.—This is a portion of the Constitution about which the people of the time of the Revolution felt very strongly. From the time of the Magna Charta to the American rebellion from the tyranny of George III. Englishmen had struggled to prevent the government from denying certain rights to the individual. These rights had been set down in the most celebrated documents in English history—Magna Charta, 1215, Petition of Right, 1628, and the Bill of Rights, 1689. They are the same as appear in the first eight amendments to the Federal Constitution: Trial by jury, religious liberty, *habeas corpus*, no excessive bail, fines or punishments, indictment by a grand jury for serious offenses, no person to be twice put in jeopardy for the same offense, no one to be compelled in a criminal case to be a witness against himself, no person to be deprived of life, liberty, or property without due process of law, no private property to be taken for public use without just compensation, freedom of speech and the press, and right of petition. All of these are either clear in themselves or have been explained in the first portion of this book.

In addition to these there are certain other provisions restricting divorces, prohibiting lotteries, pool-selling, book-making, and other forms of gambling, and several

sections relating to an old system of landholding, which was in existence during colonial times.

Voting.—Of greatest importance are the clauses which relate to voting. This did not appear among the “rights” for which Englishmen had struggled in their early history. It is a “privilege” which has been granted to citizens without distinction in New York State only during the course of the nineteenth century. Now the Constitution provides: “No member of this State shall be *disfranchised*, or deprived of any rights or privileges secured to any citizen thereof unless by the law of the land, or the judgment of his peers.” That is to say, that the Legislature cannot by merely passing a law deprive a member of the State of such rights or privileges. To be deprived of them a member of the State must be tried and convicted of having done something which under the Constitution of the State makes him incapable of enjoying the rights and privileges of the ordinary citizen.

Qualifications of Voters.—Not everybody who lives in the State, however, enjoys the privilege of voting. The Constitution makes this clear. A voter must be a male citizen twenty-one years of age; he must have been a citizen for ninety days (see pp. 98, 99, of “Our Government”); and he must have been an inhabitant of the State for at least one year next preceding the election at which he offers his vote. But this is not all. He must be a resident in the place where he wishes to cast his ballot. He must have resided in the county for at least four months and in the election district for at least thirty days before election day.

Persons Excluded from Voting.—Nevertheless, a man having all the above qualifications is deprived of the privilege of voting if at any time he is convicted of having taken or given bribes at an election, or of having committed any other infamous crime. In earlier times, as we have seen, there were many more persons excluded from the privilege of voting than at present. Under the Constitution of 1777, all negroes, free or slave, were excluded; under that of 1821 free negroes owning a certain amount of property were allowed to vote, but it was not until the amendment of 1874 was made to the Constitution of 1846 that negroes were put on an equality with white men in the matter of voting. This was done in accordance with the Fifteenth Amendment to the Federal Constitution declared in force in 1870. White men also who did not own a certain amount of property were excluded from voting by the constitutions of 1777 and 1821, and it was not until 1826 that an amendment removed this restriction.

SUGGESTIVE QUESTIONS.

1. What was the Magna Charta? the Petition of Right? the English Bill of Rights? Find out their history and give their most important provisions.
2. Compare Article I of the Constitution of New York State with the first eight amendments to the Federal Constitution.
3. Are there countries where freedom of speech and freedom of the press are restricted?
4. Can you suggest any reasons why the prohibition concerning lotteries and other forms of gambling should be put into the Constitution?

CHAPTER III.

THE LEGISLATURE.

Necessity for a Legislature.—Upon the voters depends the government. If they are uneducated and corrupt, and pay little attention to politics, the government will be bad and poorly run. If they are honest and intelligent and take an active interest in it, the government will be well run. In very early times almost everything used to be attended to by the voters directly, but with the increase of population and the growth of large States this became impossible. The voters became so numerous that they could no longer meet together in a single place, and, if they could have met, they could not have made themselves heard. Then, again, those living far away from the place of meeting could not afford the time to come. So it became customary to turn over to others the duty of carrying on the government. For this purpose three departments came to be organized: one, the Legislature, to make the laws; another, the Executive, to see that they were carried out or executed; and still another, the Judiciary, to decide on the meaning of laws, settle disputes, and declare whether the law was to be applied to a particular case. This threefold division lies at the basis of our government, and though each division is closely connected with the others we treat them under

separate heads for the sake of clearness. This chapter is to deal with the first division—the Legislature.

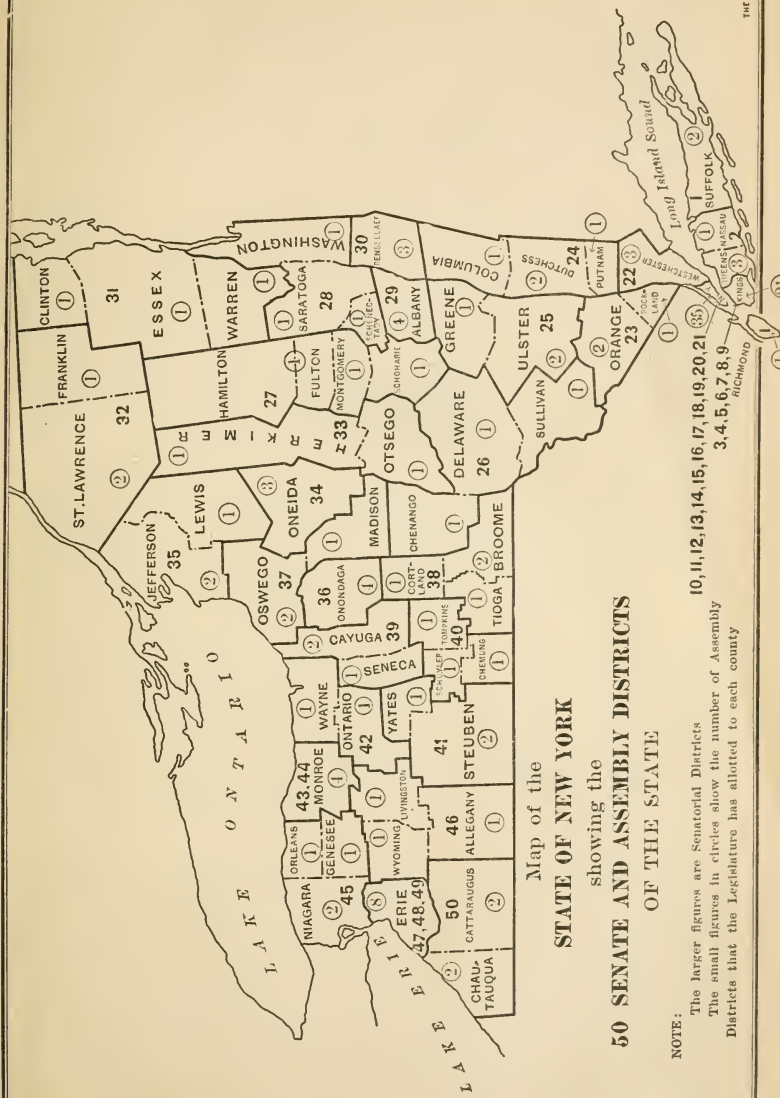
Division into Houses.—Our Legislature is divided into two houses, the Senate and the Assembly. The first has fifty members elected every two years, and the second three times as many elected every year. The day for their election is on the Tuesday following the first Monday in November.

Senate Districts.—The State is divided by the Legislature into fifty districts, and from each a Senator is chosen. In making the division into districts an attempt is made to have about the same number of people in each, but as the county boundaries must also be thought of, this is not always strictly possible. For instance, it is not allowed to take a part of one county and a part of another and put them together to form a Senate District. A single county may form a Senate District, like Albany County, or a county may be divided into many Senate districts, like Erie and New York counties, or two or more counties may be put together to form a Senate District, but the county boundaries must always remain intact. Under certain conditions too complicated to be gone into we might even have fifty-one Senators in New York State, but this is likely to happen but seldom. Then, again, no matter what the population of a county may be, even if it is more than half of the population of the State, it cannot have more than one-third of the Senate districts, and no two adjoining counties may have more than half of the Senate districts. The object of this constitutional provision is, of course, to prevent any one sec-

tion of the State from controlling the Senate; but with the increase in the population of the counties which form New York City it is going to be difficult to prevent such control.

Assembly Districts.—For purposes of the Assembly the whole State is divided into one hundred and fifty districts. Here, as in the case of the Senate districts, the county boundaries must be respected, but as the Assembly districts are smaller, it so happens that every county, with one exception, is formed into one or more Assembly districts, according to its population. The only exception is in the case of Hamilton and Fulton counties, which, on account of the small number of their population, form one Assembly District. In cases, however, where a county is divided into several Senate districts, each of these shall have the same number of Assembly districts. The Legislature assigns to each county the number of Assembly districts which it is to have. The division into Assembly districts is made by the Board of Supervisors of the county if it have more than one district. The Board of Aldermen makes the division for the counties comprising New York City.

Census.—The State is “re-districted” by the Legislature every ten years. For the purpose of making the Senate and Assembly districts it is necessary to know the number of people in the State and their residence. So in the Constitution it is provided that every ten years a State census shall be taken. The first of these has just been taken in 1905, and there will be another in 1915. As the National government also takes a census every ten years,

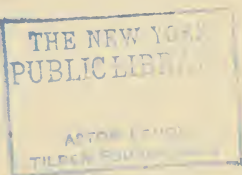


Map of the
STATE OF NEW YORK
 showing the
50 SENATE AND ASSEMBLY DISTRICTS
OF THE STATE

NOTE:

The larger figures are Senatorial Districts
 The small figures in circles show the number of Assembly
 Districts that the Legislature has allotted to each county

10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50



the last being in 1900, we have a census every five years. According to the basis on which we are now running each Senate District has approximately 130,000 inhabitants, and an Assembly District about 43,000. With the new census of 1905, however, these numbers will be larger.

Members.—To be a member of either house a man must be a citizen of the State and twenty-one years of age. He cannot hold, or have held within one hundred days previous to his election, office as a United States Congressman, a civil or military office under the United States Government, or an office under any city government. If he accepts any such office after he is chosen to the State Legislature, he loses his seat. A member is not required by the Constitution to be a resident of the district from which he is chosen, but by law this residence is made necessary. He is also disqualified for the office if he has committed some infamous crime.

Privileges of Members.—Members are paid for their services, are exempt from arrest in a civil action while attending a session of the Legislature, and cannot be questioned in any other place for anything they may have said in the Legislature.

Meeting and Organization.—The Legislature meets every year, and assembles on the first Wednesday of January. In organization it resembles very closely the Congress of the United States. The officers and the committee system of doing business are almost the same. The Lieutenant Governor is the presiding officer in the Senate. In case he is absent a temporary president is

chosen by the members. In the Assembly the presiding officer is called the Speaker and is chosen by the members. There are besides many subordinate officers in both houses, such as clerks, stenographers, and door-keepers, some of whom are appointed by the presiding officers and some elected by the members. Each house determines the rules of its own procedure, and judges of the elections, returns, and qualifications of its own members. Each house must keep a journal of its proceedings and must allow the public to see it or to hear the proceedings in the open house, except in such cases as demand secrecy for the sake of the public welfare. Neither house may adjourn for more than two days without the consent of the other. A majority of each house shall constitute a quorum to do business, but in the case of the final passage of a bill levying taxes, creating a debt, or appropriating money or property, three-fifths of the members elected must be present. The business is conducted by means of committees appointed by the presiding officer in each house. To these committees are referred the particular bills on subjects which they are appointed to consider. To the Committee on Railroads, for example, are referred all bills affecting railroads. There are other committees on finance, judiciary, cities, canals, education, taxation, etc.

Powers of the Legislature.—In general, it may be said that the Legislature has power to pass laws on all subjects (1) not prohibited by the United States Constitution (Article I, Section X), (2) not expressly granted to the National government, (3) and not prohibited by the State Constitution. Of these, the third class is the

most numerous, and the tendency is for it to become more so. In spite of this, however, the powers of the Legislature are very broad, for it has to do with the everyday concerns of the people. Besides its legislative powers, it also has executive and judicial functions. The Senate, for example, has the right to confirm or reject appointments made by the Governor, and acts as a court of trial in cases of officers impeached by the Assembly.

Methods of Procedure.—There is no difference between the two houses in the powers which they exercise over legislation. All bills—even those appropriating money—may originate in either house. All laws must be passed by both houses, and must have the assent of the majority of the members elected to each house. Those appropriating money or property for local or private purposes must have the votes of two-thirds of the members elected to each house. All bills passed by one house may be amended in the other. The enacting clause of all bills is: “The People of the State of New York, represented in Senate and Assembly, do enact as follows:” and no law can be enacted except by bill.

The Making of Laws.—Each house determines for itself the proceedings which must be gone through before a bill can become a law. These are to be found in small pamphlets entitled, “Rules and Orders of the Senate” and “Rules and Orders of the Assembly.” These differ in small details, but in general we may say that a bill passes through three important stages. (1) A bill is introduced by a member from his place, or on the report of a committee, or by a message from the other house. The bill is then given its *first reading* by the Clerk, usu-

ally by title only, and is then referred to the committee which has charge of the subject to which the bill relates. (2) This committee then takes the bill in hand. If the committee thinks the bill worthy of passing, it may discuss it very fully, have hearings on it of people interested, may make any modifications it sees fit, and then report it back to the house. If the committee does not like the bill, it may report against it, and thus "kill the bill in committee," as the saying goes. The house may, of course, demand to have a bill reported to it, but it seldom does. If, however, the bill is reported favorably, and the house accepts the report, it is then given its *second reading* at some specified time. After this reading time is allowed for debate. After this is done, the bill may be adopted in whole or in part, or amended, or referred to the Committee of the Whole. In the Senate every bill must be referred to the Committee of the Whole before it can have its third reading, but in the Assembly it need not be unless two-thirds of the members present demand it. The object in referring a bill to the Committee of the Whole is to get more opportunity for debate. In this committee the ordinary rules of the house, which only allow of a short time for debate, are suspended, and a more informal discussion takes place. If the bill is passed after the second reading, it is ordered to be printed and distributed to the members. A time is set for its *third reading*. At that time the "ayes" and "noes" are taken and entered on the journal of the house. No debate is allowed. If the vote is affirmative, the bill is then sent to the other house, where it is dealt with in much the same fashion. If that house passes it, it is ready for the Governor.

Checks.—The object of all this complicated procedure is to facilitate business, and to insure careful consideration of each bill, while the object of having two houses is for one to form a check on the other.

Conference Committee.—It may happen, however, that one house amends the bill of the other in a way which is not acceptable. To settle the matter a Conference Committee, composed of members of both houses, is appointed. This committee tries to make a compromise satisfactory to both houses, but sometimes it does not succeed and the bill fails to become law.

Submission to the Governor.—If the bill, however, is finally passed by both houses it is sent to the Governor. If he signs it, it becomes law; but if he disapproves it, he “veto” it and sends it back with his objections to the house in which the bill was first introduced. If the Governor does not return the bill within ten days (Sundays excepted) after he receives it, it becomes law without his signature; or if he vetoes it and the houses repass it with a two-thirds majority the signature of the Governor is not necessary. No bill, however, can become a law after the final adjournment of the Legislature unless approved by the Governor within thirty days after such adjournment. These bills are known as “thirty-day bills,” and there is always a large number of them. Many the Governor signs, but he allows a good many to “die” by failing to sign them.

Restrictions on the Legislature.—Originally the Legislature was able to pass laws on almost every variety of

subject, except, of course, on those prohibited by the National Constitution. The people later grew distrustful and began to put into the State Constitution certain subjects upon which the Legislature could not legislate. These are too numerous to give a complete list, but in general they may be grouped under two heads: (1) Financial restrictions and (2) restrictions on private and local bills. Under the first heading we may note the following: (a) An appropriation bill must not contain any provision not relating to the appropriation. This is to prevent the evil known as "riders." On bills appropriating money for the expenses of the government the Legislature would put a clause which had nothing to do with the appropriation, but related to some entirely different matter. The Governor might not wish to give this clause his approval, but as he needed the money he had to sign the bill, and thus the objectionable clause would become law. This has been done away with now, and the Governor may also veto any particular item of an appropriation bill without vetoing the whole bill. (b) The Legislature may not lend the State's money or credit for the benefit of an individual, association, or corporation. (c) The Legislature cannot contract debts to meet current expenses in excess of one million dollars, except to defend the State in time of invasion, insurrection, or war, and the money thus raised cannot be used for any other purpose whatsoever. (d) No extraordinary debt shall be contracted unless it is duly authorized by law for some special object, and even then it cannot be valid until it is submitted to the people at some general election and approved of by a majority of all the votes cast.

Private and Local Bills.—The Legislature used to pass many private or local bills, usually for the benefit but sometimes to the detriment of one person or locality. This was the source of much corruption, and now the Constitution declares that any such bill must not embrace more than one subject, and that must be expressed in the title. Further than this there are some fourteen different subjects on which the Legislature may not pass private or local bills. The most important of these are: (*a*) The laying out or altering of highways; (*b*) locating or changing of county seats; (*c*) incorporating villages; (*d*) regulating the rate of interest on money; (*e*) granting to any corporation the right to lay down railroad tracks; (*f*) granting to any private corporation any exclusive privilege or franchise whatever; (*g*) granting an exemption from taxation. All laws on such subjects must be of a general nature and not be applicable simply to one person or locality, but to many.

Indirect Restrictions.—In addition to the direct prohibitions on the Legislature there are numerous clauses contained in Articles VII–XIII of the Constitution which we may call indirect restrictions. These are subjects which the people would not trust to the Legislature, but which they wished to withdraw from its control by putting clauses in the Constitution relating to them. Such restrictions are those which direct the Legislature to provide for a forest preserve, canals, charitable and educational institutions, a militia, the organization of counties and cities. They would not trust the Legislature to legislate concerning bribery and free passes on the railroads, and so put clauses in the Constitution re-

lating to them. A clause about the last of these makes it a misdemeanor for any holder of an office under the State to receive a pass.

General Similarity to Congress.—Our outline of the State Legislature has served to show us how very similar it is in many ways to the Congress of the United States. In our next chapter we are to find out if the Legislature works out in practice the way it is supposed to work in theory.

SUGGESTIVE QUESTIONS.

1. What reasons are there for favoring annual rather than biennial sessions of the Legislature?
2. When was the last census taken by the United States? By the State? When was the last apportionment of Senate and Assembly districts made? Why is apportionment required so frequently?
3. How large is the Assembly District in which you live? What territory does your Senate District include? Who is your Assemblyman? Your Senator? When was each elected? When will their successors be elected?
4. According to the last apportionment what were the ratios for Senate and Assembly districts? Find the population of several districts and see how nearly they correspond to the ratio.
5. When did the last regular session of the Legislature occur? How long did it last? Which party had a majority in the Senate? In the Assembly? How large were these majorities?
6. What were the most important subjects considered by the Legislature at this session? What important laws were enacted?
7. What reasons can you give for granting to the Legislature those privileges mentioned in this chapter?

8. Do the people of the State take as much interest in the work of the Legislature as in the work of Congress?
9. In what ways may vacancies occur in the Legislature?
10. What persons may not receive passes? What reasons can you give for this prohibition? Why was this provision made a part of the Constitution, instead of remaining a mere law?
11. In how many ways may a bill become a law? In how many ways may it fail to become a law?
12. Why should the Governor have the power to veto a bill?
13. Can you determine from the titles of committees given in the Legislative Manual what matters are considered by each committee?
14. What is meant by a "Committee of the Whole"?
15. Look up the definition of a corporation.
16. Find out the difference between a private and a public corporation.

CHAPTER IV.

THE WORKING OF THE LEGISLATURE.

The Difference between Theory and Practice.—We often hear it said that things may work well in theory, but not in practice. Our State government, as well as our National government, does work remarkably well in practice, but that fact is no reason why we should close our eyes to some of its faults. It is very difficult for us to see our own faults, and these have been best pointed out to us by foreigners who have examined our institutions.

Character of the Members of the Legislature.—Some very excellent men have sat in our Legislature, but also some who were inferior. It is natural to ask how these get in. In part this is undoubtedly due to our "district system," which makes it necessary for a member of the Legislature to live in the district which he represents. In theory it ought to be possible to find a man of eminence in every district, but in practice it often is not. Men of ability sometimes do not wish to go to the Legislature, and then the voters must take an inferior man. At other times a strong man fails of reëlection because he has offended the political boss of the district, or has not been pleasing to some particular faction in it. Thus the

State loses his services because he cannot be elected from another district unless he resides in it, and it is not always possible or convenient for him to move. So it is that legislators frequently vote for measures that they do not think right or good for the interests of the State at large, because they are afraid of offending the leader, or the voters of the district from which they are chosen, and so of losing their seat at the next election. This makes our legislators narrow statesmen. Under these circumstances we may well ask ourselves if we could not improve matters by allowing our representative to be chosen from anywhere within the State.

Short Terms.—The election of Assemblymen every year and Senators every two years is not in itself a bad system. It enables us to get rid of an incapable man, but this very fact makes us careless of the character of the man we elect. At elections we do not reelect good men frequently enough. We wish to give too many a chance. A man no sooner gets into the working of the Legislature than he has to get out. We make demands on our representative to do things for our district, and unless he does them, out he goes. This puts him under the necessity of thinking all the time about his reelection. He plays to the "grand stand," for, unless he does, he knows that his public career will be cut short by the voters, even if it is not by the political boss. Such short terms of office destroy the efficiency of our legislators.

Effects of Restrictions on the Legislature.—To send a man to the Legislature to make laws, and then to make a long list of subjects on which he cannot legislate does

not give to the office the dignity it should have. A truly great man likes responsibility, and if he is not to have it he does not wish the office. Men of less ability will go where he refuses to go. Their motives are not always the best and they do not make the best legislators.

Fear of the Legislature.—Some people argue that we must restrict the Legislature, for if we do not it will do harm by passing bad laws. Such men always give a sigh of relief when the Legislature closes its session. But we must remember that if bad men are sent to the Legislature it is our fault and not theirs. We as voters are responsible for them, and if we do not attend to our duties as voters, they will not attend to theirs as legislators. Perhaps if we gave them greater responsibility and watched them more closely, we might find more capable men desiring to go to the Legislature to make names for themselves.

Lack of Public Interest in the Legislature.—Though, as we have seen, the State has more to do with our daily life than the National government, it is remarkable that we take more interest in the doings of the latter than of the former. Our newspapers devote very little space to the proceedings in the legislative chambers at Albany. The result of all this is that bad bills are often put through, and “jokers” in bills are of frequent occurrence. These are clauses in otherwise good bills which are not for the public welfare, and which are allowed to remain in the bill simply because the general public has not paid attention to what the Legislature is doing. This failure of the people to watch the Legislature is also

largely responsible for much of the corruption which is to be found at times among our legislators.

The Committee System.—The doing of the large bulk of the work in the Legislature by means of committees is also responsible for many bad bills, though, of course, the system does permit of the Legislature accomplishing a great deal of work. “What the committee says goes,” is a common saying. The committee being a small body can be much more easily influenced by interested parties, and thus frequently reports a bill, and the Legislature passes it, which would not pass if the Legislature were compelled to examine it more closely. Much hasty and ill-considered legislation is put through as the result of this system.

Actual Law-Making.—At first legislation seems a very simple matter. We think of an assembly of legislators gathered together to make laws for us. A member rises from his seat, and, getting recognition from the presiding officer, proposes a bill, or presents a long argument for or against one which is before the house. In practice he does no such thing. If he wishes to speak on an important measure he has to arrange beforehand to be recognized by the presiding officer, and the latter is not always willing to do it. If sufficient pressure cannot be brought to bear to get recognition, the member may rise from his seat in vain, he is not recognized and is not allowed to speak. Even if he obtains recognition, the time he may speak is very much limited. The result of this is that the bills are voted upon with very little debate or discussion. As the members of a political party are,

therefore, frequently in doubt how they are to vote, they all meet "in caucus" at some time and place outside the legislative chamber, and there decide how to vote on a given bill. Such practices are resorted to on account of the enormous number of bills which comes before the Legislature every session. There are so many that the members have barely time to read them privately, much less to hear them discussed at length in the hours when the Legislature is sitting. Many a legislator thus votes for or against a bill which he has not even read. Some say that the Legislature passes more laws than can be enforced by the executive, and that we could well do without many of them. This is very probably true, but for every bill that is passed several others fail of passage. All of them, however, take up the time of the Legislature.

The Lobby.—Nothing is so responsible for the large number of bills presented in the Legislature as the "lobby." This term is applied to two things: (1) The hall or space outside the doors of the legislative chambers; (2) the group of men who assemble there to urge legislators to pass or defeat certain bills. The individuals of this group are known as "lobbyists." They go to the State Capitol to represent either their own interests or those of others. We often think that the members of the Legislature consider the needs of the community and bring in bills of their own to satisfy those needs. As a matter of fact, a very large number of bills brought into the Legislature are suggested and worked up by members of that group of men known as the lobby. As they have everything to gain by their bills they are very persistent in getting members of the Legislature to vote

for them and in bringing all sorts of "pressure" to bear. The greatest evils we suffer from are due to this lobby, for the bill of the lobbyist is usually for the benefit of the few at the expense of the many. The Legislature itself is sometimes accused of bringing in "strike bills"—that is, bills against certain corporations—for the purpose of being bought off by the lobby. In some of the Western States they are trying to prohibit "lobbying." It is a question whether we should not try something of the same sort in our own State.

The Machine.—The lobby frequently seeks and gets the support of what is known as the "machine." This usually means that group of party politicians, either within or without the Legislature, who are able, on account of their great influence with the party, to compel the members of their party in the Legislature to vote as they dictate under pain of defeat at the next election if they refuse. We often hear it stated that such and such a bill has been "jammed" through the Legislature, or defeated, at the dictation of a party leader, and that the vote taken was strictly along "party lines." This means, of course, that the members of the Legislature voted regardless of argument or debate. They closed their ears to all reason and voted as they were told. This sort of thing takes place more frequently in our Legislature than in the Congress of the United States, and more so than in the Legislature of any other State.¹ If this is true, then we as voters are responsible. Laws should be made with

¹ See a report of Mr. A. L. Lowell in the Proceedings of the American Historical Association for 1901.

cool deliberation and not "jammed" through in this fashion.

Lack of Business Principle.—The lobby and the machine serve to make our legislators ignore the fundamentals of business principle and morality. They run the government on a basis that they would not think of employing in their private business. They forget that the offices which they hold are trusts which they should not violate on account of any amount of pressure from the lobby and the machine.

Our Remedy.—Other faults of the National Congress, such as the use of "log-rolling" and "patronage," do not exist to any great extent in our State Legislature; but we have cited enough to show that our methods are not entirely perfect. To know our faults, however, and to do nothing to remedy them is worse than not knowing them at all. We should know our imperfections in order that we may try to improve them. As we live under a democratic government we should always remember that whatever faults exist in it rest on our shoulders. So when we feel inclined to decry the men we elect, we should be ready to acknowledge that if they are bad it is we who are to blame. We cannot excuse ourselves by saying that we have not the time to devote to politics. It is our business to make time, and if we fail to do so, we have no real right to complain.

SUGGESTIVE QUESTIONS.

1. Give arguments for and against placing many restrictions on the Legislature.
2. Explain "log-rolling" and "patronage."

3. Give the advantages and disadvantages of the "committee system" of doing legislative business.
4. Find out if there is any country in which members of the legislative branch of the government do not have to reside in the districts by which they are chosen. What effect do you think this would have on the quality of the men chosen and on the length of time that they remain in public service?
5. Does the Constitution of the United States make it necessary for a member of the House of Representatives to reside in the district from which he is chosen? If not, does he usually do so? Why? Can you find out if there is any place in New York State where this principle is violated?

CHAPTER V.

THE EXECUTIVE.

Responsibility.—The Executive Department of the State government consists of those officers whose business it is to see that the laws passed by the Legislature are put into operation and enforced. In colonial times, when the Governor was appointed by the English crown, he used to appoint in turn the other executive officers. Such a system was not liked by the people after the Revolution, and they soon brought it to pass that almost all of the most important officials were to be elected by the people. This, of course, made them all directly responsible to the people. In this respect the State government is not at all like the Federal government, for there, as we saw, the chief executive officer, the President, is alone responsible to the people, and the other executive officials are appointed by and are responsible to him.

The Governor.—The Governor is the title of the chief executive officer of the State. He is elected at the same time and places as members of the Legislature, and holds office for two years. To be eligible he must be: (1) A citizen of the United States; (2) not less than thirty years of age; (3) a resident of this State for five years next preceding his election. Like the President, he has to take an oath of office and also to swear that he has not used money or other unfair means to procure election.

Powers of the Governor.—He is commander-in-chief of the military and naval forces of the State. He may convene both houses of the Legislature or the Senate alone in extra sessions, at which, however, only the subject for which he calls them together is to be considered. He may grant reprieves, commutations, and pardons except in cases where the convicted person has been guilty of treason or been tried on articles of impeachment. He has the appointment, by and with the advice and consent of the Senate, of many State officers. He may suspend or remove certain State and local officers for wrongdoing. He has the power, as we saw above, to accept and sign bills, or to reject and veto them.

Duties of the Governor.—The Governor has many duties, and they are constantly increasing in number. We can consider only the most important. He must communicate by message to the Legislature at every session on the condition of the State, and recommend such measures as he thinks best. He must see to it that the laws are faithfully executed. In case he grants pardons, commutations of sentence, or reprieves to a convicted criminal, he must report the matter to the Legislature at its next session.

The Lieutenant Governor.—The Lieutenant Governor must have the same qualifications for office as the Governor, and is elected in the same way. Ordinarily his sole duty is to preside over the Senate, but he is not a member of that body, and has a vote only in case of a tie. Should the office of Governor become vacant from any cause the Lieutenant Governor succeeds to it. In case of the death of both the Governor and the Lieutenant Gov-

ernor the office of Governor goes to the President of the Senate, and in case of his death to the Speaker of the Assembly.

Lower Executive Officers.—The officers of the Executive Department below the Governor and Lieutenant Governor may be divided into four classes: (1) Elected; (2) appointed; (3) appointed boards; (4) ex-officio boards.

Elected Officers.—There are five officers elected by the people, besides the Governor and Lieutenant Governor, for the term of two years. (1) The Secretary of State has charge of the great seal and records of the State, superintends the publication of laws, the taking of the State census, and the granting of commissions and certificates of incorporation. (2) The Comptroller audits the public accounts, superintends the collection of taxes, makes an annual report to the Legislature of income and expenditures of the State Government, gives an estimate of the amount of money needed for State expenses for the next year, and issues orders or warrants for any money which is to be drawn from the State Treasury. (3) The Treasurer is the custodian of the money received by the State, and may pay it out only on an order from the Comptroller. (4) The Attorney-General is the law officer of the State and the legal adviser of the other State officers. He protects the interests of the State in courts in which they are involved, and must prosecute criminals if directed to do so by the Governor or Justices of the Supreme Court. (5) The State Engineer and Surveyor has charge of the survey of public lands, the laying out

and construction of State roads, and a certain control over the building and repair of canals.

Appointed Officers.—Besides the officers elected directly by the people there is a large number of officers of whom some are (*a*) appointed directly by the Governor with the consent of the Senate, (*b*) others by the Governor in conjunction with some other officers, and (*c*) still others by the Legislature. We cannot give all of these officers here, but will mention the most important: (1) The Superintendent of Public Works, (2) the Superintendent of Insurance, (3) the Superintendent of Banks, (4) the Superintendent of Prisons, (5) the Commissioner of Health, (6) the Commissioner of Agriculture, and (7) the Commissioner of Labor are appointed by the Governor with the consent of the Senate for terms of varying length. The duties of most of them are obvious from their titles. The first and third call for a little explanation. The main duties of the Superintendent of Public Works have to do with the construction, repair, and navigation of canals, and those of the Superintendent of Banks have to do with the supervision of all banks, trust, loan, and guaranty companies which are organized under the laws of this State.

The Superintendent of Weights and Measures and the Superintendent of Public Buildings are appointed by the Governor in conjunction with some other officers, and the Regents are appointed by the Legislature.

Appointed Boards.—Much of the work of the Executive Department of the State government is done by boards of several men appointed by the Governor with the con-

sent of the Senate. Their duties are mainly those of inspection. Such boards or commissions are the State Board of Charities, the Lunacy Commission, the Prison Commission, the Railroad Commission, the Tax Commission, Port Wardens, the Quarantine Commission, and the Civil Service Commission.

Ex-Officio Boards.—The boards known as “ex-officio” boards are made up of officials who are members because they hold certain offices. There are several such boards. One, for example, is that of the Commissioners of the Land Office, consisting of the Lieutenant Governor, the Speaker of the Assembly, the Secretary of State, the Comptroller, the Treasurer, the Attorney-General, and the State Engineer and Surveyor.

Importance of the Governor of New York State.—New York is one of the few States of the Union whose Governor occupies a high position in the public eye. It is an office much sought after, and is frequently a stepping-stone to the higher position of President of the United States. For this reason very prominent men have held it and will continue to hold it.

Power of the Governor.—The people have shown a tendency in recent years to increase the Governor’s power. They have realized that added responsibility does not make a tyrant, but that additional powers frequently sober a man and make him a better Governor than when almost all power is taken away from him. Then, again, greater responsibility also makes it possible for the people to place the blame for bad as well as good measures.

This cannot be shifted so easily as when the responsibility is divided among many.

One-Man Power.—We often hear it said that if you wish a thing done well you must give it entirely into the hands of one man to do, and then see that he does it. Certainly this seems true when we compare the efficient work done by our Governor with the poor work done by many of our commissions and boards. The various members of these shift the responsibility on to the others, and as nobody is made responsible by law it is difficult to find the man who is really at fault. There is not so much danger in giving our Governor more power as there is in giving our President more power. The Governor's duties are largely routine. He has no foreign policy to carry out, no regular army to command, no navy that he could use against the people. It would seem that we might still increase the powers of the Governor and not suffer from tyranny.

Control of the Governor by the Machine.—There is, however, one danger that always confronts us. The candidate for Governor is usually a party man, and owes his nomination and election to a party. He cannot afford to offend the leaders of it, for if he does, he will fail of nomination and election when he runs. Once in office he must keep on friendly terms with all elements of the party if he expects to run for the office a second time. Thus it frequently happens that the Governor does or is forced to do things of which he does not approve—things which he feels are not for the best interests of the State at large. The party machine is strong and will defeat

him if he does not do its bidding. The truly strong Governor defies the machine and throws himself upon the support of the people. If the latter are negligent and do not mind their political duties, the Governor will be defeated largely because he has been looking out for their interests rather than for those of a few private individuals who have the machine on their side. Here, as in the case of the Legislature, it is our duty as voters to support the man who is honestly striving to look out for the interests of the people. When we hear of "grab" bills being "jammed" through the Legislature and signed by the Governor at the dictation of great party leaders we may know that all is not well. The Governor is not running the government on business principles for the best interests of the governed, but for the benefit of a few private individuals. Sometimes the Governor is weak and is only there to serve the machine. At other times, however, he is strong, but as the people do not show him that they are behind him he weakly gives in to the demands of selfish interests. For his weakness as well as for the weak Governor the voters of the State are responsible, and have only themselves to blame. Eternal watchfulness on the part of the voters is the price we must pay for a good Governor as well as a good Legislature.

The Legislature and the Governor's Veto.—It is very difficult for us to place the responsibility for a bad bill on any member of the Legislature. The member who introduced it lays the blame on the committee who takes charge of it, either because the committee made so many changes in it or did not remedy its faults. The committee refuses

to take the blame because it did not introduce the bill. The houses do not hold themselves at fault, saying that they took the committee's word for the bill. The public is puzzled and nobody in the Legislature suffers. The people, however, have increasing confidence in the Governor's veto to save them from the evils of bad legislation. They rely upon the Governor to reject any measures which are not for the public welfare. On him at least responsibility may be placed. It seldom happens that the Legislature is rash enough to pass a bill over his veto. In fact, it often happens that certain members of that body, in order to stand well with the machine, vote for bills which they hope and sometimes know that the Governor will veto.

SUGGESTIVE QUESTIONS.

1. Why is the restriction placed upon the power of the Legislature in special session? Is there such a restriction upon Congress?
2. What is a reprieve? a commutation? a pardon? Why should the Governor report these matters to the Legislature? Why are exceptions made in cases of impeachment and treason?
3. What are the laws in this State relating to the labor of children? (See the Revised Statutes.)
4. What are quarantine regulations? Find out some and cite for example. Who enforces them?
5. What are pure food laws? Name some. Who enforces them?

CHAPTER VI.

THE JUDICIARY.

Judicial Officers.—The third or judicial department of the State government consists of those officers, called judges, whose duty it is (1) to interpret or declare the exact meaning of the laws of the State, (2) to decide whether they have been violated by any accused individual or body of individuals, and (3) to decree the punishment set by law for such violation. In early times the judges were appointed by the Governor and held office during good behavior, but by the Constitution of 1846 they were almost all made elective by the people, and their terms of office were limited to a specified number of years.

Kinds of Courts.—When performing their duties the judges generally sit in courts. The court may consist of one or of many judges. In the State there are many different courts. They may be divided into two groups (1) Central and (2) Local. Under the head of Central are placed those courts whose powers extend over the whole State, and under the head of Local those courts whose powers cover only a small portion of the territory of the State.

Central Courts.—The central courts consist of (1) the

Court of Impeachment, (2) the Court of Appeals, and (3) the Supreme Court.

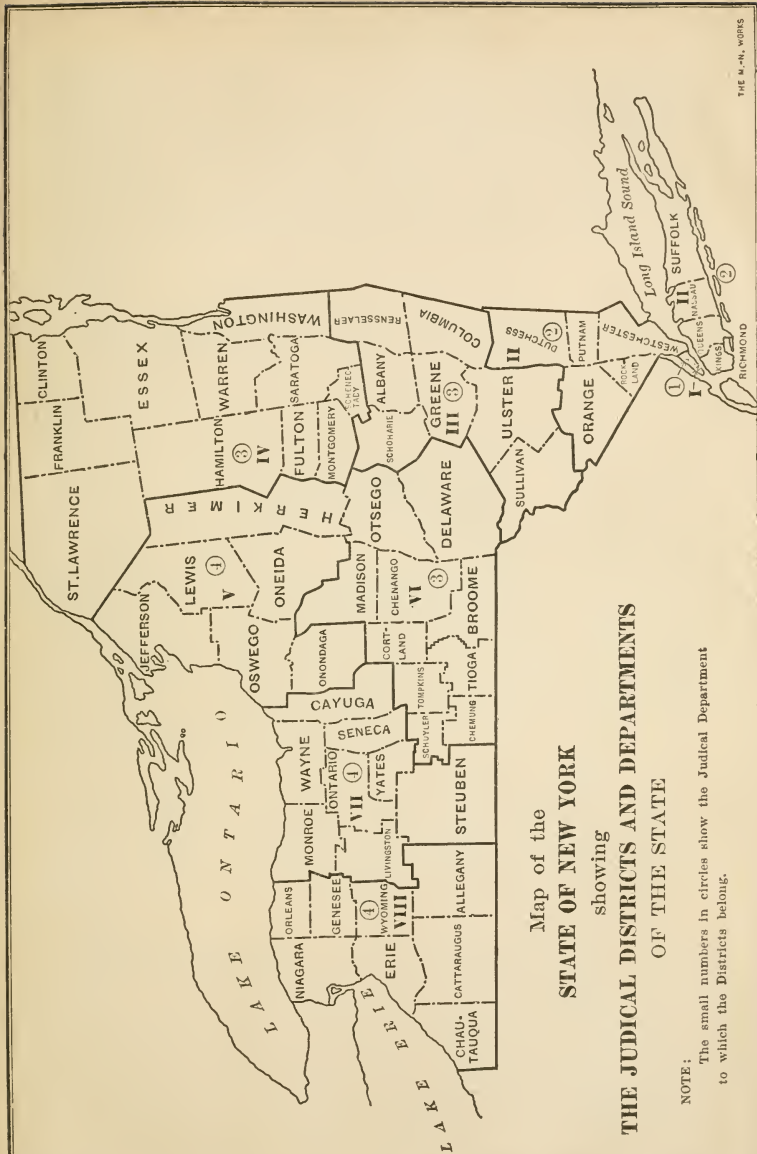
Court of Impeachment.—The Court of Impeachment is organized for the purpose of trying public officers who are accused, or, technically speaking, impeached, by a majority of the members elected to the Assembly. It consists of the President of the Senate, the Senators, or a majority of them, and the judges of the Court of Appeals, or a majority of them. In case of the impeachment of the Governor or Lieutenant Governor, the latter cannot be a member of the court. The accused to be found guilty must have a vote of two-thirds of the court against him, and even then judgment may extend no further than removal from office, and disqualification to hold any office of honor or trust under the State. The party impeached, however, is liable to indictment and punishment according to law in other courts.

Court of Appeals.—The Court of Appeals is the highest court of appeal in the State to which cases from the lower courts can be brought. If a case is to be taken higher than this, that is, to the Federal courts, it must be shown that the Federal Constitution, laws, or treaties are involved. Otherwise the decision of the Court of Appeals is final. It consists of one Chief Judge and six Associate Judges elected by the voters of the whole State for terms of fourteen years. Five members form a quorum, and the concurrence of four is necessary to a decision. This court does not try cases, as we ordinarily think of a trial, but can only review the decisions of law handed up to it from the Appellate Division of the Supreme Court.

There is, however, one exception to this. In cases involving the death penalty appeals may be made directly to this court from the court in which the trial was held, and then the Court of Appeals may review questions of fact in addition to questions of law.

The Supreme Court.—The Supreme Court is organized for hearing important civil and criminal cases. Civil cases for amounts above \$2,000, criminal cases involving the death penalty, and other criminal cases of a serious nature go to the Supreme Court. A case may be brought to it directly, or on an appeal from a lower court. It consists of seventy-six justices elected by the people for terms of fourteen years. For purposes of organization and election the State is divided by the Legislature into four Judicial departments and also into eight Supreme Court districts. A certain number of justices are chosen from each district, as twenty-two from the First District, which is New York County, and smaller numbers from the other districts, which each include several counties. Though elected from various districts, however, these justices may exercise their functions in any part of the State.

Appellate Division of the Supreme Court.—The cases which come to the Supreme Court on appeal from lower courts, or from another branch of the Supreme Court, go to the Appellate Division of the Supreme Court, which is organized for the sole purpose of taking care of appeals. There is an Appellate Division for each of the four departments mentioned above. From the whole number of seventy-six justices the Governor selects a certain number to act for terms of five years as Appellate Justices in each



department—seven in the First Department, sitting at New York City, and five in each of the other three departments, which sit at Brooklyn, Albany, and Rochester respectively. In each department four justices form a quorum, and the concurrence of three is necessary for a decision.

Trial and Special Terms of the Supreme Court.—The other justices of the Supreme Court are engaged in hearing cases which are brought to it directly, and not on appeal from other courts. For this purpose “trial” and “special” terms of the Supreme Court are held at stated intervals in every county. In a “trial” term a Supreme Court Justice presides and hears civil and criminal cases involving questions of fact, and therefore requiring the aid of a jury to pass upon them. A jury, however, may be dispensed with in a civil case if both parties agree. In a “special” term the justice decides cases or questions of law which do not require the aid of a jury, as no questions of fact are involved.

Local Courts.—Under this head are placed: (1) the County Courts, (2) the Surrogates’ Courts, (3) Justices’ Courts, (4) Municipal Courts, and (5) Coroners’ Courts.

County Courts.—In every county there is a County Court. This is presided over by a judge (in Kings County there are two judges) chosen by the voters of the county for a term of six years. Before this court come all criminal cases arising in the county (except those involving the death penalty), and all civil cases for amounts of \$2,000 and less. The County Court is also a court to

which appeals are made from courts below it. In New York County, on account of its enormous population and the great mass of business to be attended to, the ordinary County Court was not sufficient. Accordingly, two courts were set up: (1) the Court of General Sessions to hear criminal cases, and (2) the City Court to hear civil cases. Both of these courts have special sets of justices. The Court of General Sessions has a grand jury drawn for it and can hear cases involving the death penalty.

Surrogates' Courts.—In most of the counties there is a Surrogate's Court. This is presided over by a judge known as a Surrogate, who is chosen for a term of six (New York County fourteen) years by all the voters in the county. Before this court come all matters relating to the estates of deceased persons, such as the proving of wills, the granting of letters of administration when no will is left, and the appointing of guardians for minors. When a county, on account of the smallness of its population, has no Surrogate, such matters are attended to by the County Judge.

Justices of the Peace.—In each town there are elected four Justices of the Peace for terms of four years, two being chosen every two years. Each of these holds a separate court within the town. These justices hear minor criminal cases, and civil cases involving \$200 or less. They have the power, however, to issue warrants for the arrest of persons charged with any crime, and may, after an examination of the facts, admit the accused to bail, or hold them in confinement to await the action of the grand jury. In the villages existing within a town

there is a court presided over by a Police Justice who has charge of very small offenses.

Municipal Courts.—We saw that counties with a large population had to have a special system of county courts. In the same way cities, or municipalities as they are sometimes called, need a special system of town courts. Thus in large cities the duties of the Justices of the Peace are usually divided between two courts: (1) one having charge of civil and (2) the other having charge of criminal cases. In addition to these, there are numerous Police Courts presided over by Magistrates corresponding to the Police Justice of the village. All of these are necessary to handle the large amount of judicial business which arises in our cities. In New York City, for example, there are two courts: (1) The Municipal Court consisting of twenty-eight justices elected for terms of ten years by the people of the twenty-eight Municipal Court districts into which the city is divided. Each justice has charge over civil cases arising within his district which involve \$500 or less. (2) The Court of Special Sessions consists of thirteen justices appointed by the Mayor for ten years, and has charge of misdemeanors. In addition to these are many City Magistrates, some of whom are elected, others of whom are appointed, who have charge of less serious offenses.

Coroners' Courts.—In every county there are from one to four Coroners elected by the people for three years, whose duty it is to investigate all unnatural deaths, in order to determine their causes. For this purpose the coroner may call witnesses, and in the largest cities has

to submit the matter to a jury. If, as a result of this "inquest," some one is suspected of crime, such a person may be arrested to await the action of the grand jury.

Court of Claims.—In addition to the regular system of courts there is a special court, called the Court of Claims, consisting of three judges appointed by the Governor with the consent of the Senate for the term of six years, for the purpose of hearing and determining claims of private citizens against the State. The court sits at Albany, and has four sessions in the year. It is necessary to have this court because the State as a sovereign body cannot be sued by private individuals. Under these circumstances some arrangement has to be made by which a private citizen, if wronged by the State, can have his wrong righted.

Removal of Judges.—Besides the ordinary method of impeachment, judges may be removed by other means. Judges of the Court of Appeals and of the Supreme Court may be removed by a two-thirds vote of all members elected to each house of the Legislature. All other judicial officers except Justices of the Peace and justices of inferior courts not of record¹ may, on the recommendation of the Governor, be removed by a two-thirds vote of members elected to the Senate. All other minor judges are removable by higher courts.

¹ Courts not of record are those of the Justices of the Peace and other inferior courts. Courts of record are the Court of Appeals, the Supreme Court, the County Courts, and the Surrogates' Courts. The latter are so called and distinguished from the former because they have clerks who make detailed reports of the proceedings.

Character of Our Judges.—During a period following the Civil War our judiciary degenerated very much, and for a long time was under the control of political machines. In recent years, however, it has reached a high standard of excellence.

Length of the Terms of Office of Judges.—We shall have noticed by this time that the terms of office for judges are very much longer than those for officers in the legislative and executive departments. For this there is a very good reason. The office of a judge should be above party politics. Once in office the judge should be free to devote his attention to giving just decisions. If his term of office were short and elections came frequently he would have to give a great deal of time and thought to reelection. In order to gain reelection he would be sorely tempted to render decisions in important cases in favor of the person who might be in a position to give him the most assistance in the election. If justice is to exist, a judge must not have such temptations put before him. There are those who believe that our judges should not be elected at all, but should be appointed by the Governor, who is better capable of selecting a good judge than the average voter. Once in office they would stay in during good behavior. This, you will remember, is the way the Federal judges obtain and hold their offices. It certainly takes the judicial department out of politics.

Reelection by Custom.—Though we do elect our judges in this State, and give them only definite terms of office, there is growing up a very noble custom which practically

gives a judge the same office during good behavior. That is, if a judge fills his office impartially and well, it is becoming more and more the custom for both political parties to nominate him on their tickets, and thus to reëlect him term after term. The lawyers of the State believe most firmly in this custom, for they, above all others, realize how necessary it is to have impartial and honest judges to try their cases.

Salaries.—If we wish good judges we must give them long terms of office (really terms of office during good behavior) and good salaries. In our State some of the judges are much better paid than Federal judges. This does not mean that we should lower their salaries, for to get good men we must pay them well, but rather that the Federal government should raise the salaries of its judges. The judges of our Court of Appeals receive \$13,700 a year, which is larger than the amount received by the judges of the Supreme Court of the United States. The judges of our State Supreme Court chosen from districts in New York County receive \$17,500 a year, those chosen from districts in Kings County receive \$13,200, and those from other districts receive \$7,200. The highest paid Federal judge receives only \$13,000.

The “Law’s Delay.”—The “law’s delay” is an expression which we are coming to hear more and more. It means that when a civil or criminal case gets into our courts it takes a very long time to get a decision. Business men sometimes prefer to suffer a loss at the hands of others rather than go to court, because they feel that it will take such a long time to have the matter settled.

Then the expenses to which they are put in fees for the courts and the lawyers are sometimes as great if not greater than the amount recovered. The blame for this state of affairs rests partly on our judges, partly on our lawyers, and partly on our legislators. The accusation has been frequently made of late, and not without some foundation of truth, that our judges take vacations of too great length. They thus have too little time to devote to trying cases, and these keep accumulating in such numbers that it is sometimes a year or two after a case is brought before a court before it actually comes to trial. Judges are also accused of encouraging delays in the administration of justice, but this seems hardly possible. It is on the lawyers that we must place the responsibility for the many delays in having cases settled. Some of these men seem to do everything in their power by means of petty quibbles and makeshifts to prevent cases from coming to a definite trial. This is especially true of the lawyer whose client has a weak case. If the decision goes against him he is permitted to appeal again and again to higher and higher courts. Several years drag along, and it is not surprising that the average citizen becomes disgusted. It frequently seems to him as if the man who had the money to keep a case in the courts a long time wins out. Criminals are sometimes not punished until years after the commission of the crime. This breeds a sort of contempt among the people for the law and the courts. This is the worst thing of all, for the law and courts, above all, should always be respected and obeyed. The Legislature is to blame, because it is within its power to change the court procedure in such a way as to stop all the petty legal quibbles and prevent the possibility of so

many delays and appeals. This the Legislature has not done, and it has not done it because the voters do not seem to want it. So here in the judicial department we are again down to the voter, as we found ourselves in the legislative and executive departments. If there are delays in the administration of justice it is the voter's fault. It is for him to remedy the evil.

SUGGESTIVE QUESTIONS.

1. In what Judicial Department do you live? In what Supreme Court District?
2. Who is the Judge of the Supreme Court chosen from your district?
3. Who is the Justice of the Peace before whom a small criminal offense committed in your neighborhood would be tried? Police Justice? Municipal Court Justice? Justice of the Court of Special Sessions?
4. Where is your County Court House? What other courts are held there beside the County Court?
5. Give reasons for and against the election of judges.
6. Subject for debate: Should judges hold office during good behavior or for a specified term of years?
7. Find instances of the "law's delay." Do you know of any States in which it is not a great evil? Do you see any connection between it and "lynchings"?

CHAPTER VII.

THE WORKING OF THE COURTS.

Rules of Procedure.—Just as there are certain rules and regulations for conducting the business of law-making in our Legislature, so there are certain rules for conducting business in our courts—known as rules of procedure. In the last chapter we saw how some delays in getting decisions were to be attributed to faulty procedure, and now we are to find out how court business is carried on.

Kinds of Cases.—Every case which comes before a court is either a “civil” or a “criminal” case, and in every case there is a “plaintiff” who begins the action, and a defendant against whom the suit is brought.

Civil Case.—A case between two private individuals for the purpose of having justice done is a civil case. The plaintiff who feels that a wrong has been done him by the defendant brings suit. If the plaintiff does not bring the action no one else will, for it is not supposed to be anybody else’s concern. The most common forms of civil cases are those in which the plaintiff brings suit against the defendant to compel the payment of a debt or the fulfillment of a contract.

Criminal Case.—In the early history of mankind all

cases were what we might call civil cases, that is, between one man and another, or between two different families. If one man did bodily injury to another it was settled between them or between their families. Nobody else had anything to say. With the growth of civilization, however, and an increase in the power of the king, there were certain wrongs, such as murder, arson, burglary, theft, and robbery, which came to be regarded as affecting not only the individuals against whom they were committed, but as affecting all the people in the State. Such wrongs were called crimes, and the State felt called upon to do everything in its power to punish the criminal, whether the person against whom they were committed took any action in the matter or not. At first the number of wrongs which were considered crimes was small, but it has increased very much, and the Legislature may at any time pass a law making certain acts crimes. When a case involving a crime comes before a court it is called a criminal case, and the State is the plaintiff.

The Complaint.—In every criminal case the first step is the “complaint.” This may be made by the person injured, and must be made by any policeman, sheriff, justice of the peace, or district attorney who has knowledge of the crime. In form it is an accusation made before some judicial officer against some particular person, charging him with some specific wrongdoing. It must be supported by the oath of a responsible person to the effect that he regards the accused as guilty. Anybody making the complaint for mischievous or malicious purposes, and without sufficient grounds, is liable to punishment.

Warrant of Arrest.—On the basis of the complaint a warrant of arrest is issued by the justice. This is then handed over to an officer who tries to find the criminal. The complaint and the warrant of arrest may be temporarily dispensed with, however, if the accused is caught in the act, or if there is not sufficient time to get them. As soon, however, as the criminal is brought before the justice they must be duly made out.

The Examination.—When the prisoner is brought before the justice it is first determined whether the latter has jurisdiction or not. If he has, he may try the case immediately. If not, he may examine the prisoner as to his connection with the crime. In this examination the prisoner is not bound to answer any questions which might serve to incriminate him. If from the examination of prisoner and witnesses there is sufficient evidence to point to the accused as guilty, he is committed to jail for trial by a higher court, or is held to await the action of the grand jury; otherwise he is discharged. The prisoner may, however, “waive examination,” that is, ask to be committed to jail to await examination at some future time.

Bail.—When the offense is not murder or some infamous crime the magistrate before whom the examination is conducted may, instead of sending the prisoner to jail, release him on “bail.” This means that certain people, usually the friends of the prisoner, sign a “bail bond,” agreeing to forfeit a certain amount of money if the accused does not put in an appearance in court at the time set for his trial. Even if he fails to do so and the

bail money is forfeited to the State, the accused may again be arrested and held for the same offense.

The Grand Jury.—When the crime committed is infamous, that is, one involving the death penalty, imprisonment in the penitentiary, or the loss of civil or political privileges, the prisoner cannot be brought to trial for it except on presentment or indictment by the grand jury. In other words, in such serious cases the ordinary complaint is not sufficient; the accusation must be made by a body of men. In every county when a trial term of the Supreme Court is to be held there is a body of twenty-four men chosen by lot from among the taxpayers. (In New York County there are thirty-six chosen. In the same county and in Kings the members have to own a small amount of property, but they do not have to be taxpayers.) This body is known as the “grand jury.” Its duty is to inquire into the crimes which have been committed in the county. In order to assist it there is in every county a District Attorney or public prosecutor. This officer is chosen for a certain number of years by the voters of the county; it is his duty to get evidence in regard to crimes and to present it to the grand jury for consideration. When considering the evidence in any one particular case not more than twenty-three nor less than sixteen grand jurymen are allowed to sit. The meetings are secret, but the District Attorney may appear before it, and also such witnesses as it may call. It takes at least twelve affirmative votes to make an indictment or presentment. On this matter the procedure is the same as in the Federal Grand Jury. (See p. 162 of “Our Government.”)

Arraignment and Plea.—If indicted, the accused is brought into court to stand trial. While on trial he enjoys all the “rights of the accused.” (See p. 163 of “Our Government.”) The indictment is read to him. This is called the arraignment. He is then asked if he is guilty. To this he makes a “plea” “Guilty” or “Not guilty.” If the first, the judge sentences the prisoner to the punishment set by law for the crime, but if the accused replies “Not guilty,” he is tried by jury. In a case of murder the jury trial cannot be dispensed with even though the accused plead “Guilty.” So in such cases the plea is always, to all intents and purposes, “Not guilty.”

Selection of a Jury.—In every county when a trial term of the Supreme Court is to be held there is a list of thirty-six men whose names are chosen by lot from among the taxpayers (in New York and Kings the same exception holds as in the case of the grand jury) of the county who are between the ages of twenty-one and seventy. (Many classes of persons, however, such as public officials, ministers, school teachers, etc., are excused from jury duty.) The persons thus selected or impaneled are known as the “petit jury” for that term of the court. They constitute the “panel” from which the “trial jury” is drawn.

Trial Jury.—When a case is about to be tried twelve names are drawn from a box in which the names of the thirty-six petit jurymen have been placed on different slips of paper. The accused or the prosecutor may object to certain of the men chosen, on the grounds that they

are prejudiced one way or the other. A chosen juror may himself object to serving on the trial because of certain beliefs which he has. If the judge thinks the reasons good and sufficient he excuses the juror from serving. Sometimes the panel is exhausted before twelve names are accepted, and more petit jurors have to be impaneled. At times prejudice is so great that an impartial jury cannot be had in the county, and then a jury is drawn from another county or the trial itself removed there. When twelve jurors have been accepted the trial jury is complete and ready for the proceedings.

Parties and Steps in a Trial.—The accused is always considered innocent, and is given every opportunity, even to having a lawyer or counsel employed by the county for his defense. The burden of proving the accused guilty rests on the District Attorney. He conducts the side known as the “prosecution,” while the side of the accused is known as the “defense.” Both sides may have witnesses “subpœnaed” by the court, that is, orders sent to certain individuals to appear and testify. The prosecution, represented by the District Attorney, opens proceedings by declaring the reasons for believing the accused guilty. The witnesses for the prosecution are then called to the stand. Each is subjected to “direct examination” in order to bring out the facts showing the guilt of the prisoner, and each in turn is then subjected to “cross-examination” by the attorney for the defense, for the purpose of showing inconsistencies or flaws in their statements. The witnesses for the defense are then called, their testimony is taken by direct examination by the attorney for the defendant, and they are then

cross-examined by the prosecution. During the course of the trial all "questions of fact" in regard to the crime are left to the decision of the jury. Points involving the interpretation of the laws, the admission of certain kinds of testimony, or the excusing of jurors are left to the judge. If the decisions of the latter are displeasing to the attorney for one side or the other in the trial he may file "exceptions" to them. At the close of the trial the attorney for the defeated side may gather these exceptions into a "bill of exceptions." He may then take this bill before a higher court and argue that a new trial should be ordered because of the wrong decisions of the judge.

When the testimony is all in, the attorney for the defense delivers his "summing up" of all the evidence which goes to show that the accused is not guilty, and the District Attorney follows him with a summing up of all the facts pointing to the guilt of the defendant. The judge then delivers the "charge" to the jury, showing them clearly how the law applies to the case in hand, but being careful not to influence the jury in any way as to how they shall find in regard to the facts.

The jury then retires to a private room, where it remains until it decides unanimously to bring in a "verdict" of guilty or not guilty, or announces that it fails to agree. In the last case a new trial is ordered before a new jury. If the prisoner is declared not guilty, he is discharged; if he is declared guilty, the judge pronounces "sentence," that is, declares the penalty which the criminal will have to suffer for his crime. This may be pronounced immediately, but it is usually not done until after the lapse of a few days. After this it is the duty of

the sheriff of the county to see that the sentence is carried out.

Procedure in Civil Cases.—So far we have dealt with criminal procedure. In a civil case it is somewhat different. Here the plaintiff gets the court, before which the action is triable, to send a “summons” to the defendant, citing him to appear within a certain time and at a specified court to answer the “complaint” which the plaintiff has made against him. If the defendant fails to answer, judgment will be entered against him, and it is the duty of the sheriff to see that the judgment is carried out or executed. If the defendant files an answer to the complaint, a trial is then begun to determine who has right on his side. The steps in the trial are then much the same as in a criminal case. The plaintiff takes the place of the prosecution, and the defendant of the defense.

Appeals.—Either party in a criminal or a civil case may appeal to a higher court if he thinks that the verdict is not in accord with the testimony, or if he feels that the judge has made some wrong rulings on points of law. The one who appeals is called the “appellant,” and he presents all the data and arguments before the higher court for the purpose of getting the verdict reversed and having the case sent back to the lower court for a new trial; or he may even contend that the lower court did not have jurisdiction, that is, power to try the case, and ask to have it tried before a higher court. The court appealed to may dismiss the appeal, and in that case the verdict of the lower court stands. Under certain conditions, how-

ever, the appeal may be carried higher than the first court appealed to, and may thus go on up to the Court of Appeals, and finally to the Supreme Court of the United States.

Complications in Procedure.—From this sketch of procedure in trials we can see how many delays can occur in the trial of an ordinary case. When lawyers wish to pursue a policy of obstruction and the judges are careless, weeks may be consumed in trying to get a jury. After one is found and the trial proceeds, it is frequently impossible to get the unanimous decision of twelve men. If just one man out of the twelve fails to agree the whole case must be tried over again, and so it may be tried again and again until the parties are wearied and give up the suit. Even after a verdict is obtained the defeated party may appeal to a higher court on some technical exception to a ruling of the lower court. The judge in the lower court and the judge in the higher court may both be excellent judges, but there is always room for honest differences of opinion about the small technicalities of the law, and so the higher judge may reverse the decision of the lower judge and order a new trial. Even if he refuses to do this, an appeal may be carried to still higher and higher courts. It is not surprising, therefore, to find that a case comes out of the courts some two or three years after it is started.

Defects of the Jury System.—The question has sometimes been asked whether a system under which cases would be heard and decided by a bench of several judges would not be more satisfactory than our present jury

system. It cannot be denied that the administration of justice by means of a jury is often very faulty. One of the reasons for this is found in the difficulty of securing men who are thoroughly qualified to serve as jurors. Several difficulties may be noticed: (1) In the first place, a great number of intelligent men are exempt from jury duty. (2) Then, too, the power of preparing the lists from which petit jurors are drawn is often placed with local officers who exercise it corruptly; men are chosen for political reasons, or under the influence of powerful attorneys or the parties to important suits. (3) Again, the most intelligent men on the list of petit jurors may be excluded from the trial jury of an important case on the ground that they have formed their opinion of the matter to be tried. (4) Attorneys are allowed to "challenge," either with or without the statement of a cause or reason, the men whom they do not wish to see on the jury for a certain case. This serves to protect their clients against jurors who are prejudiced; it is also a means of so constituting juries that they may be easily influenced by skillful attorneys. (5) Finally, justice is sometimes defeated by the downright bribery of jurors—a crime of the most serious nature.

In enumerating the reasons why jurors are sometimes incompetent, it must be said that too often the most capable men shirk jury duty; they begrudge the sacrifice of time that it involves, and they give both good and poor reasons why they should be excused from jury service. Thus are made possible many of the evils that we have noticed in the selection of jurymen.

Advantages of the Jury System.—In spite of the many

faults that appear in the workings of the jury system, its place in our government is stable, for it is founded upon important principles. Some arguments in its favor may be mentioned: (1) This system insures publicity in the proceedings of trials, and publicity is always a deadly enemy of bad government. (2) Again, juries decide the "facts" in suits at law, while the judge decides points of law. In the performance of their duty, then, the jury must exercise that "common sense" which is at the foundation of all justice. The plain judgment of one's equals, though it may err in some cases, is, "in the long run," a safer guide than the judgment of any individual or any class. This idea is fundamental in a democracy.¹

Necessity for Reform.—Our State has become more or less noted for the tardiness of its justice. Other States have no better judges and no better lawyers than ours, but their justice seems to be surer and quicker. This is due in a measure to better rules of procedure. In some States they have abolished the requirement of a unanimous decision of a jury for a conviction; they have stopped the dilly-dallying in the selection of jurors, and they have made it impossible to take so many appeals. Speedy justice has been given in both criminal and civil cases, and the public has a great respect for the courts.

With us the feeling seems to be growing that criminals too frequently escape the infliction of the penalty of their crime for a long time or altogether, and that dishonest men cannot be brought to justice because the injured are unwilling to take up a civil case which can-

¹ The paragraphs on the defects and advantages of the jury system are quoted from the complete edition of "Our Government," pp. 234 and 235.

not be settled for years. Our judicial procedure seems to be arranged to shield the criminal and the wrong-doer rather than to bring him to justice. The general public is over-humane in its treatment of him, and does not seem to realize that such an attitude is really to the injury of all the people by causing an increase in crime. As long, therefore, as the public and the voters do not seem to care whether it takes three weeks or three years to settle criminal and civil cases, just so long will our judicial procedure be faulty. In the end everything rests with the voters. If they sincerely wish an improvement they will have it.

SUGGESTIVE QUESTIONS.

1. The processes described in connection with trials can best be understood by the use of legal blanks which may be obtained from lawyers, local officers, or printing offices. The class should have blank forms for "complaints," "summons," "warrant for arrest," "subpœna."
2. What is the meaning of the words "petit" and "grand" used in connection with juries?
3. Do lawyers favor the abolition or modification of our jury system?
4. What is the attitude of citizens of your acquaintance toward jury service?
5. How do you account for the conflicting testimony given by witnesses in trials?
6. Look up the origin of the petit and grand juries in some English history.
7. In what way did the early English petit jury differ from that of the present day? Do you see a reason for having a unanimous decision of twelve men in the early days of the petit jury which does not exist with our jury system as it is to-day?

CHAPTER VIII.

LOCAL GOVERNMENT: COUNTY, TOWN AND VILLAGE.

Introductory.—So far we have concerned ourselves mainly with the central government of the State, and excepting the judicial department, said very little about the local government. In the case of the judiciary we found it necessary to study the local courts in connection with the central courts because they were so closely bound together that one could not be made clear without a study of the other. The same is not true of the local legislative and executive bodies except to a small extent. So we have reserved the study of these for a special chapter.

Divisions of the State.—New York State is divided into sixty-one counties. Each one of these is divided into districts known as “townships” or “towns.” The word town is sometimes used loosely to mean any considerable group of dwelling houses, but the accurate meaning of the word is that which we have given it above. In the town there may be only scattered farmhouses, or there may be one or several “villages,” each with a circumscribed area over which the officers of the village exercise a certain control. A whole town, or several towns, or even a whole county may be covered by the dwellings of a “city.” When this is the case much of the local organ-

ization of the county and town is superseded by a special government provided for in a "city charter." In all of these local units, county, town, village, city, there are the three departments of government—the legislative, executive, and judicial—just as there are in the central government of the State.¹

The County.—The legislative department of the county is known as the Board of Supervisors. It consists of one supervisor for each town and each ward in a city elected every two years by the voters of such districts. The duties of the board are specified by the State Legislature. The most important are to raise money, to provide for the building of roads, bridges, and county buildings, and to care for the public property of the county.

The executive department consists of the following officials elected for three years: (1) The Sheriff, whose duty it is to preserve order, execute judicial orders, and be responsible for criminals confined in the county jail. (2) The County Clerk, whose duty it is to keep the public records, record all deeds and mortgages, and act as clerk of the Supreme and County courts. (3) The County Treasurer, whose duty it is to take charge of county moneys, and to keep an account of receipts and expenditures. (4) The District Attorney to prosecute criminals, give legal advice to other county officers and the grand jury, and to act as attorney for the county in suits brought by or against it. (5) The Superintendents of the Poor. There may be from one to three of these chosen by the Board of Supervisors. Their duties are to have charge

¹ An examination of Richmond County in the map of New York City will show the old town boundaries within it like those of Middletown, etc.

of the poorhouse and the poor. (6) The School Commissioners. Every county has one or more of these officials, according as the county comprises one or several school districts. Each is elected by the voters of his district and has charge of the schools in it.

The county judiciary, consisting of the County Judge, the Surrogate, and the Coroner, has already been dealt with in the chapter on the judiciary, and does not need repetition here.

The Town.—The town legislative department known as the Town Meeting consists of all the voters in the town. This meets regularly every two years unless called together more frequently at the request of twenty-five voters or of the town officers. Its duties are to elect town officers, to stop public nuisances, to care for the property of the town, and to raise and appropriate money for its needs.

The town executive officers elected by the Town Meeting for two years are: (1) The Supervisor, who manages the finances and represents the town in the county legislative department; (2) the Town Clerk, who keeps the town records; (3) the Collector, who collects taxes; (4) three Assessors, who place a value on property for purposes of taxation; (5) from one to three Commissioners of Highways, who have charge of roads and bridges; (6) one or two Overseers of the Poor, who have charge of the poor; (7) not more than five Constables, who preserve order and execute the orders of the Justices of the Peace; (8) four Inspectors of Election, who preside at town elections and receive and count the ballots. The Supervisor, Town Clerk, the Justices of the Peace, or any

two of the justices form the "Town Board," whose duty it is to audit the accounts of town officers and claims against the town.

The town judiciary consists of four Justices of the Peace, about whom we have spoken in the chapter on the judiciary of the State.

The Village.—In parts of a town or sometimes covering a whole town there are thickly populated districts which have special needs beyond those taken care of by the town government. These call for a considerable outlay of money. Those who live in the town, but not in the village, are naturally unwilling to vote for expenditures from which they derive no benefit. Those living in the village, on the other hand, desire larger powers of taxation and certain powers of incurring debt which the town does not have. To take care of these special needs a village government is incorporated under a general law of the State Legislature. Though the village has a government of its own with separate officers, it is still a part of the town. Those who live in the village may vote in the Town Meeting, help elect the town officers, and share all the burdens and benefits of town government. The villager, however, has his village duties as well as those of the town.

Classes of Villages.—The villages in New York State are divided into four classes: (1) Those having a population of 5,000 or more; (2) those having a population of from 3,000 to 5,000; (3) those from 1,000 to 3,000; (4) those under 1,000. For each one of these classes the State Legislature has passed laws relating to the details of government.

Incorporation of a Village.—When a community has reached the population required it may ask to be incorporated as a village. This may be done by twenty-five freeholders in a territory not exceeding one square mile, or an entire town containing a population not less than two hundred, making application to the supervisor of the town. The supervisor may then call for a vote of the taxpayers living within the area specified, and if a majority desire incorporation, a certificate to that effect is filed with the County Clerk and the Secretary of State, and a village government is set up.

Village Government.—The legislative department of the village is known as the Board of Trustees. This consists of the Village President and from two to eight other members, all of whom must be taxpayers, elected by the qualified voters for a term of two years. The duty of this board is to make by-laws for the government of the village, to raise and appropriate money, to maintain water-works, sewers, sidewalks, streets, police and fire departments, to regulate markets and street lighting, and to audit all accounts and claims against the village.

The executive department consists of officers who are usually elected by the qualified voters for one year: (1) The Village President, who sees that the by-laws are enforced and has general charge of village affairs; (2) the Treasurer, who receives and pays out the village money; (3) the Clerk, who keeps the village records and the proceedings of the Board of Trustees; (4) three Assessors, who place a value on property for purposes of taxation; (5) the Collector, who collects taxes; (6) a Street Commissioner; (7) a Fire Commissioner; (8) a Water Com-

missioner; (9) a Light Commissioner, whose duties are obvious from their titles.

A village need not necessarily have all of these officers, or it may have others such as Sewer Commissioners and Cemetery Commissioners; but every village must have a Board of Health consisting of from three to seven members appointed by the Board of Trustees.

The judicial department of the village consists of a Police Justice elected for four years. He tries minor criminal offenses and violations of the village by-laws.

Character of Local Government.—In the government of our counties, towns, and villages we have been very successful. They are forms of government with which our English ancestors had been familiar for centuries. The population in these local districts is not too large to be unwieldy. In the government there is no fine system of checks and balances. All the departments of government work harmoniously and smoothly. Then, again, the governments of these local units are conducted on a strictly business basis. Most of the people concerned are property holders, and are therefore interested in having the governments run on an economical basis. Everyone takes a direct interest in the government. If there is any corruption, and taxes increase, the property owner feels it immediately and wishes to know the reason why. In the villages the voter who does not pay direct taxes cannot vote on a question involving the expenditure of money. Thus what is to be spent is directly in the hands of those who are most interested in seeing corruption kept out and expenses kept down. Having a feeling of ownership in the district, they have a pride in seeing it well managed.

Good and efficient officers are elected year after year regardless of party politics. They are regarded like the officers of a large business company, and are kept in office as long as their services are good.

Faults of Local Government.—Unfortunately the above remarks are not true of all counties, towns, and villages. In some of them during recent years there has been growing up a considerable population of non-property holders. Except in the villages these have the same rights as owners of property, and even in the villages they have the right to vote for village officers. Having no direct interest by a feeling of part ownership they vote for bad officers and for the expenditure and borrowing of large sums of money. There is now, however, a provision in the State Constitution restricting the expenditures of counties, towns, and villages, and the amount of money they can borrow. This is a good provision, but it does not do away with the evil which threatens to undermine the good qualities of our local governments. This evil lies in giving to everybody, whether he has any property interests or not, the privilege of voting on matters in which he has no real ownership. This makes him careless of the way he votes, for he does not care so long as he thinks that he does not have to bear the burden of heavy taxation. The property owners, feeling that they will be outvoted, do not attend the town meetings, but stay at home and object to the heavy taxes that they have to pay. They scarcely deserve sympathy for taking such an attitude.

Remedies for the Faults.—To keep our local government up to its old standard of excellence one of two steps

seems necessary. Either the voting power must be given only to those who have property and pay direct taxes, or, if all are to be allowed to vote, then they must be made to realize by education that increased taxation bears just as heavily on those who do not pay direct taxes as on those who do. This will be clear, if you will remember that all of us have to live in some dwelling. If we do not own it we have to pay rent. If direct taxes are increased the landlord is not going to bear all the burden, but makes us bear our share of it by increasing the rent. In the same way we bear our portion in the increased prices of the things we buy. If every voter realized this thoroughly he would not be so ready to vote for heavy expenditures. The difficulty of making him realize it is so great that some think it would be best to put the power of voting, in local governments at least, solely in the hands of those who pay direct taxes. The better way, of course, would be to have every voter well enough educated to vote intelligently and to realize that he as well as the direct taxpayer is interested in seeing the government run well and economically.

SUGGESTIVE QUESTIONS.

1. See the questions on pages 6, 12, and 18 of "Our Government."
2. Find out the names of the men who are holding the offices in your county, town, and village governments.
3. When the privilege of voting has once been given is it an easy matter to take it away? Who has the power to change the qualifications for the privilege of voting in our local governments?

CHAPTER IX.

LOCAL GOVERNMENT: CITIES.

Definition and Origin of Cities.—The city is in reality a large village. It may cover one town or several towns, one county or several counties. Cities existed in New York before there were incorporated villages. In England cities, under the name of boroughs, grew out of villages. Just as a village on account of its population needed a different form of government from that of the town, so a city on account of its larger population needed a different form of government from that of a village. When a village is incorporated the town government remains, but when a city is incorporated the town government ceases to exist.

Number of Cities.—Population centers in certain districts largely because of manufacturing and commercial advantages which they have. Though there were four cities in New York before 1800, it was during the nineteenth century, when manufactures and commerce grew with such great rapidity, that the number of cities was increased to forty.

Classification of Cities.—In this State the cities are divided into three classes: (1) Those which have a population of 250,000 or more—New York City and Buffalo; (2) those which have from 50,000 to 250,000—Roches-

ter, Albany, Syracuse, and Troy; (3) those which have less than 50,000.

General and Special Laws.—The classification of cities was largely made for the convenience of the Legislature in making laws affecting cities, and in granting charters incorporating them. Many evils had arisen from the Legislature's enacting special laws affecting only certain cities, and there was placed in the present State Constitution a clause restricting the Legislature in this matter. The Legislature may pass general laws affecting the cities of one or more classes, but if it enacts a special law affecting a special city or cities, such law is subject to veto by the mayor of cities of the first class, and by the mayor and legislative body of cities of all other classes. The Legislature may, however, repass the law over the veto, and it then goes to the Governor.

Charters.—Every city when it is incorporated receives a charter or body of rules from the Legislature. In the case of cities of the second class the Legislature has attempted to make a uniform charter, but in the case of all other cities it has granted a special charter of incorporation to each. Thus there are but a few cities in the State that have exactly the same government. They all differ in details, but are all alike in having the three departments of government—legislative, executive, and judicial—described in the chapter on cities in the first part of this volume.

Mistakes of City Charters.—In drawing up the city charters our legislators early made the mistake of look-

ing upon the city government as they did on the National and State governments. They thought that all the checks and balances to be found in those should be put in city government. No one officer should be given much power, but it should be divided among several. They did not seem to realize that such division of power was not so necessary in a city government as it was in the National government. Their model, instead of being the National government, should have been a large business company or corporation. Their objects should have been not to have checks and balances, but to have the city government working as smoothly as possible. Greater power and responsibility should have been given to each officer, so that if anything went wrong the voters would have been able to pick out immediately the official whose fault it was. But where nothing could be done unless several different officials or departments gave their consent to it, if anything went wrong each would put the blame on the others, and the voter would not be able to find out just which one was responsible. Instead of serving as a check on each other they all served as shields to corrupt action. Under the circumstances a great deal of crookedness went on, and the voter could not discover where it was.

Old and New Charters.—Such was the state of affairs when the celebrated Tweed Ring ruled New York City from 1869 to 1871. After its overthrow the best citizens saw that great changes would have to be made in the government of the cities if corruption was to be kept out. From that time to the present day, therefore, they have been working for changes along certain lines. These

have been: (1) to give a great deal of power, and therefore responsibility, to the Mayor, by putting into his hands the appointment of almost all the heads of the important administrative departments, and making him responsible for them; (2) to increase the length of the term of office of the Mayor so that he may have ample time to work out the problems of city government; (3) to put all minor city employees on a reformed civil-service basis, and thus remove from them the temptations of corrupt party politics; (4) to abolish the system of two houses in the city legislature and to have only one house; (5) to take away many of the powers of the one legislative house left, and to put such into the hands of a few officials; (6) to give to the cities far larger powers over their own local affairs and subject them less to the control and interference of the State Legislature. How much has been accomplished along these lines is to be seen best from a comparison of the government of Buffalo, which in a measure represents the old form, with that of New York City, which represents the new.

New York City.—The last charter of this city, passed in 1901, and with the amendments made to it in that and subsequent years, forms a good-sized book. It contains 209 large pages. Like all charters, it opens with a definition of the boundaries. New York City covers the counties of New York, Richmond, Kings, and Queens, a total area of nearly 327 square miles, and has a population of over 4,000,000. For the purposes of administration, election of officers, etc., the territory is divided into 5 boroughs, 66 wards, and 73 aldermanic districts.

Map of
NEW YORK CITY
 SHOWING ITS FIVE BOROUGHES,
MANHATTAN, THE BRONX,
BROOKLYN, QUEENS
 and **RICHMOND**

0 5 10
 Scale of Miles



Legislative Branch.—The legislative branch of the city government consists of one house, called the Board of Aldermen, the second house known as the Council having been abolished. In this body there are seventy-three aldermen—one elected from each aldermanic district, the President of the Board—elected by the city at large, and five Borough Presidents—one elected from each borough, making a total of seventy-nine members. The aldermen hold office for two years. They elect the City Clerk, who holds office for six years and keeps the record of proceedings. The powers of this board are such as ordinarily belong to the Board of Trustees of a village. They include the making of municipal ordinances concerning the conduct of the citizens, the appropriation and borrowing of money, and the fixing of certain salaries. The Mayor may veto any measure passed by the board, and it can be passed over his veto only by a two-thirds vote for ordinary bills, and a three-fourths vote, if the measure is one involving taxes and expenditures. The character of the men chosen to the Board of Aldermen has not always and uniformly been of the best, and the Legislature of the State has shown a tendency to reduce its powers more and more. In matters of finance it can practically do nothing in the way of increasing expenses without the consent of the Board of Estimate and Apportionment, but the latter can in many cases appropriate money without the consent of the Board of Aldermen. One of the recent acts of the State Legislature has been to take away from the Board of Aldermen the power over franchises, and to place this in the hands of the Board of Estimate and Apportionment. Many citizens are now urging the abolition of the Board of Aldermen altogether, as a body

which has outlived its usefulness. They hope to have its powers given to a smaller and more responsible board elected at large and not by districts.

The Executive Branch.—At the head of the executive branch of the city government stands the Mayor. The Mayor holds office for four years. To assist him and be directly responsible to him in carrying out the duties which he has to perform the Mayor appoints: (1) The Corporation Counsel, who gives legal advice to the city officials and attends to suits brought by and against the city; (2) the Commissioner of Police; (3) the Commissioner of Water Supply, Gas, and Electricity; (4) the Commissioner of Street Cleaning; (5) the Commissioner of Bridges; (6) three Commissioners of Parks; (7) Commissioner of Public Charities; (8) Commissioner of Correction; (9) Fire Commissioner; (10) Commissioner of Docks and Ferries; (11) five Commissioners of Taxes and Assessments; (12) forty-six members of the Board of Education, appointed for five years, which in turn appoints the City Superintendent of Schools and other Associate Superintendents. These form the Board of Superintendents, and in its hands is placed the actual running of the schools of the city, though the Board of Education has it within its power to overrule it. The Board of Education also appoints a Superintendent of School Buildings, a Superintendent of Supplies, and a Supervisor of Lectures; (13) Commissioner of Health; (14) Tenement House Commissioner; (15) Commissioners of Accounts; (16) Municipal Civil Service Commissioners. With the exception of the members of the Board of Education, all of these officers are

absolutely responsible to the Mayor and are removable by him.

Finance Department of the Executive.—The finance department of the city executive is not controlled by the Mayor. It consists of the following officers: (1) The Comptroller, elected for four years by the whole city and having supervision over all matters pertaining to receipts and payments of money, and debts contracted by the city; (2) the Chamberlain, appointed by the Mayor and having custody of the city funds—his duties are the usual duties of a Treasurer; (3) four Commissioners of the Sinking Fund, who are the Mayor, the Chamberlain, the President of the Board of Aldermen, and the Chairman of the Finance Committee of the Board of Aldermen. The principal duty of this commission is to see that proper provision is made for the payment of the city debt; (4) the Board of Estimate and Apportionment, consisting of the Mayor, the Comptroller, the President of the Board of Aldermen, and the five Borough Presidents. In the hands of this small board practically rests the control of all expenditures of the city funds. It estimates the expenses for the coming year and apportions the funds among the various departments, which all submit estimates for this purpose. The Board of Aldermen may *decrease*, but it may not *increase* the estimates thus made and submitted by the Board of Estimate and Apportionment. The amount of debts which the city may contract is limited by the Constitution.

Judicial Branch.—Besides a special arrangement of the County Court, which exists for New York County, and the regular county system of courts for the other

counties in New York City, there are the Municipal Court, the Court of Special Sessions, and the City Magistrates. These have been described in the chapter on the judiciary of the State, but there is to be noted about them the power of appointment which the Mayor has in the case of the Justices of the Court of Special Sessions and in that of some of the City Magistrates.

Boroughs.—New York City is so large that it is divided into five boroughs—Manhattan, the Bronx, Brooklyn, Queens, and Richmond—for the purposes of more effective administration in those localities. The voters of each of these choose every four years a Borough President. His most important duties are those relating to local improvements in his borough. These include the grading, curbing and guttering of streets, the construction, repairs and cleaning of the sewers and of certain public buildings, the erection and care of public baths, and the placing of street signs. He appoints (1) the Commissioner of Public Works and (2) the Superintendent of Buildings within his borough. He is the head of the Local Improvement Boards, which consist of himself and the aldermen of the aldermanic districts lying within each of the Local Improvement districts into which the borough is divided.

The City of Buffalo.—Buffalo, in Erie County, has a population of about 400,000 and an area of about forty-two square miles. For purposes of administration and election of officers it is divided into twenty-five wards.

The Legislative Branch.—The legislative branch of the Buffalo city government is of the old type and has two houses: (1) A Board of Councilmen, nine members

elected for four years, and (2) a Board of Aldermen, twenty-five members elected, one from each ward for two years. They elect a City Clerk. Their powers are much the same in kind, but greater in scope than those now exercised by the Board of Aldermen of New York City. As the assent of both houses is needed for any measure, there is much wrangling between them and much delay.

The Executive Branch.—The Mayor is elected for four years, but he has far less power than the Mayor of New York City. Less than half of the heads of executive departments are appointed by him, the others being elected by the people. In the Department of Finance the Comptroller and the Treasurer, in the Department of Assessment the three Assessors, in the Department of Law the Corporation Counsel, in the Department of Public Works the Commissioner, in the Department of Education the City Superintendent, and in the Department of the Poor the Overseer, are all elected, and the Mayor has but little control over them. He appoints two Police Commissioners, a Commissioner of Health, three Fire Commissioners, five Park Commissioners, and five Examiners of the Board of Education. The Mayor may for cause remove all city officials with but a few exceptions. It will be noticed how frequently there are several commissioners instead of one in a department. That is the way it used to be in New York City, but it was found far better to have one commissioner, as he cannot dodge responsibility. Also to be found absent from the Buffalo executive branch is that body which has worked so well in New York City—the Board of Estimate and Apportionment.

Judicial Branch.—In Buffalo the judicial branch of the city government consists of three courts: (1) The Municipal Court—two judges elected for six years, with civil jurisdiction; (2) the Police Court—a Police Justice elected for four years, with criminal jurisdiction; (3) the Justices' Courts—three justices elected for four years, with special criminal jurisdiction in connection with the police department. It is to be noted in contrast how many judicial officials are appointed by the Mayor of New York City.

Cities of the Second Class.—In providing for the government of cities of the second class—Rochester, Syracuse, Albany, and Troy—the Legislature followed those lines of development which we have already noted as being followed in the case of New York City. In the legislative branch there is only one house; in the executive branch the Mayor has very large powers of appointment, and there is a Board of Estimate and Apportionment with almost the same powers as that in New York City. Thus has the movement gone on for giving the officials of our cities greater power and greater responsibility. The tendency now is to organize cities like great business corporations, and we may regard this as an excellent sign.

Criticism of Our City Governments.—It is generally conceded that in no form of government have the Americans made a greater failure than in municipal government. In New York State we have in the past failed as much in this form of government as have the people in the cities of other States of the Union. Corruption and incompetence among city employees have been very great,

extravagant expenditures of money have gone on without check, great debts have been incurred, and the State Legislature by special bills has frequently interfered to make matters worse.

Causes for the Evils.—These evils have been due to several causes: (1) Large numbers of foreigners have flocked to our cities. Having the privilege of voting, but not understanding our institutions, they have been led blindly to follow and vote for corrupt men. This must not be emphasized too much, however, because in some of our cities where Americans prevail in numbers there has been just as much corruption. (2) The lack of a property qualification for voting may be given as a second cause. Voters who have no property and do not have to bear the burden of direct taxation are not so careful about voting for extravagant expenditures as are those who have to bear the burden. (3) The educated and well-to-do citizen has been indifferent and has not even gone to the polls to vote because of a feeling that what little good he might do by it would be entirely nullified by the great number of votes of the illiterate class and those who have no interest in seeing expenses kept down and the government well run. (4) The municipal elections have been held at the same time as National and State elections, so that the real city issues have been forgotten and votes cast with only the National and State issues in mind. (5) The city governments have been run in the interests of the great State and National political parties. (6) The State Legislature has constantly interfered in the purely local affairs of the cities and has refused to give them any but a small measure of “home

rule" in such matters. (7) The cities have grown so rapidly in population and area that the expenses incurred for the laying out and paving of new streets and other necessary improvements have all come at once and caused a much larger debt than would otherwise have arisen. (8) The cities have attempted to enforce restrictions against gambling and drinking which would be impossible in even the most successfully governed European cities. (9) Lack of foresight in making provision for public parks when land was cheap has caused heavy expenditures for them when it had grown expensive. (10) The worst evil of all, however, is a moral one. Ordinary business men who are honest in their private affairs have seemed to regard the city treasury and city franchises as proper objects for plunder. They have furthermore disregarded city ordinances and bribed officials to allow them to do so. On their shoulders rests the blame for much of the corruption which has shown itself in our city governments.

Remedies Applied.—(1) The Municipal Civil Service has been very extensively reformed. Minor positions are now given according to the grading received in examinations. The holders of them remain in office year after year, no matter what party may win in the election. Thus positions can no longer be awarded for party services or for the payment of a bribe. (2) Clauses have been placed in the State Constitution limiting the indebtedness of cities, and restrictions placed on the Legislature in passing special acts in regard to cities. (3) The time of holding municipal elections has been placed on a different date from those of the National and State elections,

and in many cities a party has sprung up which interests itself in city affairs alone. This has interested many citizens in city affairs who previously did not care enough about them to vote.

Existing Evils.—In recent years we have made great improvements in the government of our cities in this State. Though we have got rid of many evils, there are others which we should do our best to have done away with. (1) One of these is the tendency on the part of our mayors to appoint party leaders as heads of departments. These men know nothing of the work of their departments and are constantly making serious blunders. To make matters worse the departments do not work together well. Authority over the same thing is frequently divided among several, each one giving orders without reference to what the others are doing. This explains, for example, why it is that sometimes streets are no sooner nicely paved by one department than they are torn up by the orders of another to lay gas pipes, electric-light wires, etc. (2) A second is the almost unlimited privilege of voting. Some reformers think we should do well to put in force the rule which we have in our villages, that is, when questions of taxation and expenditure are involved, only those who are direct taxpayers have the privilege of voting. The institution of a Board of Finance for whom only the direct taxpayers could vote would accomplish this end. (3) A third evil is that we still try to do too much. There are certain moral evils in our cities, such as drinking, gambling, and the like, which we should be much more successful in dealing with if we tried to regulate them rather than to stamp them out. (4) Unrestricted

immigration brings to the cities hordes of foreigners. The city has to undertake the education of these and of their children. This is a great burden on the finances. The National government, which is largely responsible for this condition of affairs, does not bear any of the cost. (5) Hasty extravagance in finance is another evil. Works are undertaken and completed which might well be left to future generations. (6) In one way or another the State Legislature still interferes too much with matters which should be left to the people in the cities themselves to decide. When the cities wish to do something which merely concerns themselves they must first go to Albany to get permission through legislation. (7) Valuable franchises are granted to corporations, and the cities do not receive sufficiently good prices for them. (8) Private citizens and large corporations still violate municipal ordinances, and when called to account buy up or try to buy up the officials whose duty it is to enforce them.

Influence of the Newspapers.—The subject of the cities cannot be left without saying something about the influence for good which our newspapers have had. Corruption and inefficient government are killed by publicity. This the ever-watchful press has given them. The good citizen will always be a reader of the newspapers. Absorbed in business, as the average man is, he has too little time to uncover the schemes of crafty politicians. For this he must rely upon the press, and the faithful reading of it will make him an intelligent voter and citizen.

SUGGESTIVE QUESTIONS.

1. See the questions and references on pages 29, 30, and 31 of "Our Government." Make replies to them for the city in

which you live, or for the city nearest to the place where you live.

2. Consult or obtain the following: (a) City Charter; (b) City Ordinances; (c) Municipal Manual; (d) annual reports of the various departments or boards; (e) printed forms used in the offices of the city clerk, treasurer, and assessors; (f) copy of a declaration of taxable property; (g) tally sheets and records used at the polls; (h) sample ballots; (i) legal notices from the daily newspapers.

CHAPTER X.

NOMINATIONS AND ELECTIONS.

Introduction.—Down to this point in our narrative we have been mainly concerned with an outline of the central and local governments in New York State, and their working. The State has so many activities, and does so much, that we might spend many more chapters in describing the management of the departments of agriculture, of public lands, canals and navigation, and so on, but for our purposes it will be sufficient if we devote this and the following chapters to the treatment of a few selected topics: (1) Nominations and Elections; (2) Local Taxation; (3) State Finance; (4) Education; (5) Amendments to the Constitution.

Importance of Elections.—If all government could be carried on after the style of the Town Meeting we should have very little to say of elections. In some cantons of Switzerland the government is conducted in that way. The citizens all assemble in one place, make known their wishes, and then go to their homes. But such a simple method can exist only where the area of the State and its population are very small. When these have increased very much in size there is no place large enough for the meetings to be held where anyone can make himself heard, and the distance to travel is so great that only the

few who live near the meeting-place can attend. Under such circumstances a method has to be devised by which the ordinary citizen can make his wishes known, and yet not have to attend the meeting himself. He and his neighbors elect a representative to go to the meeting and make known their wishes. That is why elections are important, because through them the ordinary citizen is enabled to take part in the government.

Who Take Part in Elections.—Not all the people who live in the State or district take part in elections, for voting is a privilege and not a right. If those who enjoy the privilege do not see fit to admit others to it there is no legal or peaceable way by which they can be compelled to do so. All people under age, foreigners not naturalized, women, and many others are not allowed the privilege of voting, though they may have the protection of the laws and every other right and privilege that the voter has. Even a man who has had the privilege of voting in one district in the State may not have the same privilege in another district unless he has all the “qualifications for voters” mentioned in Chapter II.

Political Parties.—It has been usual from earliest times for those who held the same ideas on certain questions of government to group themselves together and try to choose their man to run the government to suit them. At first these groups had no organization, but New York State was one of the first in which parties began to have a regular organization with recognized leaders. From our study of history we know that the two first parties after the Revolution were the Federalists and Anti-Fed-

eralists. The latter afterwards took the name of Republicans. After the War of 1812 the Federalists died out, and the Republicans had things all their own way for a time. At the time of Jackson they split into two parts—the Democratic Republicans and the National Republicans. The latter finally took the name of Whigs, and then split up into a large number of different parties on account of the slavery question. Ultimately out of all these grew up a party which called itself the Republican party. The old Democratic Republicans had dropped the latter portion of their name and called themselves Democrats. The new Republican party was victorious in the elections just preceding the Civil War, and ever since that time there have been two chief parties in our State—the Democratic and the Republican. There have been, and there are now, numerous other parties, but of these we have no space to treat.

Organization of a Party.—Parties are, of course, private organizations, and do not form a part of the government of the State. Any expenses to which they may be put are paid for by subscriptions from members. The objects of organized parties are to hold voters of the same political opinions together, to nominate a man for office who will carry out those opinions, and to get him elected. To accomplish the above objects in a State having a large population and a large area requires a somewhat complicated organization of parties. Any group of men desiring to be recognized by our State as a party with the rights of organization must show that they polled at least 10,000 votes at an election at which a Governor was chosen. The business of a party is managed by an

elected committee. As each party is a private affair it may have an organization to suit itself, except in so far as the State Legislature has stepped in to regulate certain matters. No two parties are therefore exactly alike in the details of their organization, but in general they are very similar.

The Primary.—We saw that government by means of representatives grew up because of a large area and population. In the same way a representative system had to be devised for making nominations for office. In small districts, such as the town, nominations for office can be made directly by a meeting of all the voters of a party, just as the government can be carried on by the town meeting, but in a larger and more densely populated district nominations have to be made by the representative plan. To make nominations in a small district, all that is necessary is a meeting of the voters of a party in that district. This is known as the “primary.” In the State the district for a primary is usually a town, but in the cities primaries are held in the Assembly Districts, the city wards, or in districts known as “election districts,” comprising about four hundred voters. Each political party has its own special system in these matters. This primary makes nominations for the local offices, or elects delegates to a convention which has such nominations in charge, and, at the election, the names of these nominees appear on the ballot with the names of those who have been nominated after much the same fashion by other parties. The duty of the primary does not end here. It elects a committee, or officers of its own, whose duty it is to look out for the interests of the party in the district.

Conventions.—Delegates are chosen by the primaries to attend the County Convention and the Assembly District Convention. In the cities the primaries also choose delegates to attend the City Convention. This convention makes nominations for the general city offices. The County Convention makes nominations for county offices, and selects a committee and officers to conduct meetings and take care of party interests in the county. The Assembly District Convention does the same thing for its district and also elects delegates to the State Senate District Convention, the State Judicial District Convention, the Congressional District Convention, and the State Convention, when elections are going to take place in these various districts. All of these conventions perform much the same duties and functions as the conventions of smaller districts. They all have special duties besides. The State Senate District Convention nominates a man for office in the State Senate. The State Judicial District Convention nominates men for the offices of State Supreme Court Judges from the district. The Congressional District Convention nominates a man for the office of Representative in the Federal House of Representatives, and, in Presidential election years, elects two delegates to attend a National Convention of the party. The State Convention makes public the principles and doctrines of the party, nominates men for State offices, such as the Governor, Lieutenant-Governor, etc., and, in Presidential election years, nominates the party's "electors" of the President and elects four delegates-at-large to the National Convention.

National Convention.—The delegates chosen by the Con-

gressional District Conventions of the State, and the four delegates-at-large attend the National Convention of the whole party. Here committees and officers of the party are chosen, the principles and doctrines of the party known as a "platform" are drawn up, and men are nominated for the offices of President and Vice-President of the United States.

Irregularities.—Complicated as this method of making nominations may seem, it is in reality not nearly so simple or so regular as it appears here. If we were, however, to give all the details and the many exceptions, we should have to occupy an entire book with them.

Time of Holding Primaries.—The regular primaries are held on the seventh Tuesday before election day. In the year of a Presidential election it is the tenth Tuesday, and there is also in that year an extra primary held on the last Tuesday in March for the purpose of choosing delegates to conventions which have to do with the National Convention.

Voting in Primaries.—On account of the frauds practiced in primaries, the State has found it necessary to pass very strict laws in regard to their management. Only those regularly enrolled as members of the party in the district are allowed to vote. The committee chosen by the primary arranges for the time and place of meeting, and sets the hours between which the members may make their nominations for local officers and for delegates to conventions. Any attempt at fraud, such as refusal to allow the ballot box to be inspected before

the voting begins, and allowing non-members to vote, and counting the vote in secret, invalidates the nomination. When the primary has finished its work, it has set in movement the whole machinery of the nominating conventions which we have mentioned above.

Rival Delegations.—It frequently happens that two sets of delegates are sent by some primaries to a convention, or from a lower to a higher convention. These cause endless disputes, which are sometimes settled only by allowing each delegation to cast half the vote to which the delegation is entitled.

Instructed and Uninstructed Delegations.—It is common for the primary to “instruct” their delegates how to vote in the conventions to which they are chosen. If this convention chooses delegates, these in turn are instructed how to vote at a higher convention. The delegates are, however, frequently sent “uninstructed,” and are thus allowed to use their best judgment as to whom they shall vote for in a nominating convention.

Independent Nominations.—Nominations for office may be made by other means than by the use of a party organization such as that sketched above. For example, if six thousand or more voters wish to nominate a certain man for Governor, they may sign an “independent certificate of nomination,” send it to the official who has charge of the ballot, and their candidate’s name will appear thereon. For officials elected by smaller districts than the whole State the number of names required for an independent nomination is less—that required for a town official, for instance, is only one hundred.

THIS BALLOT SHOULD BE MARKED IN ONE OF TWO WAYS WITH A PENCIL HAVING BLACK LEAD TO VOTE A STRAIGHT TICKET, MAKE A CROSS OR MARK WITHIN THE CIRCLE ABOVE ONE OF THE PARTY COLUMNS TO VOTE A SPLIT TICKET, THAT IS, FOR CANDIDATES OF DIFFERENT PARTIES, THE VOTER SHOULD MAKE A CROSS OR MARK BEFORE THE NAME OF EACH CANDIDATE FOR WHOM HE WISHES TO VOTE. IF THE TICKET IS MARKED IN THE CIRCLE FOR A STRAIGHT TICKET, FOR ALL OFFICES FOR WHICH THE ELECTOR MAY VOTE, HE MAY VOTE FOR CANDIDATES FOR SUCH OFFICES SO LIMITED BY MAKING A CROSS OR MARK BEFORE THE NAMES OF CANDIDATES FOR SUCH OFFICES ON ANOTHER TICKET, OR BY WRITING THE NAMES, IF THEY ARE NOT PRINTED UPON THE BALLOT, IN THE BLANK COLUMN UNDER THE TITLE OF THE OFFICE. FOR EACH OFFICE FOR WHICH THE VOTER DOES NOT CHOOSE THE NAME OF ANY PERSON UNDER THE TITLE OF THE OFFICE IN THE BLANK COLUMN, HE SHOULD NOT CHOOSE THE NAME OF ANY PERSON UNDER THE TITLE OF THE OFFICE IN THE BLANK COLUMN. IF YOU TEAR OR DEFACE OR WHOLLY MARK THIS BALLOT, RETURN IT AND OBTAIN ANOTHER.



BLANK COLUMN.

THE ELECTOR MAY WRITE IN THE COLUMN BELOW, UNDER THE TITLE OF THE OFFICE THE NAME OF ANY PERSON WHOSE NAME IS NOT PRINTED UPON THE BALLOT, FOR WHOM HE DESIRES TO VOTE.

REPUBLICAN TICKET	DEMOCRATIC TICKET.	SOCIALIST LABOR TICKET.	PROHIBITION TICKET.	SOCIAL DEMOCRATIC TICKET	
For President, WILLIAM MCKINLEY.	For President, WILLIAM J. BRYAN.	For President, JOSEPH F. MALLONEY.	For President, JOHN G. WOOLLEY.	For President, EUGENE V. DEBS.	
For Vice-President, THEODORE ROOSEVELT.	For Vice-President, ADLAI E. STEVENSON.	For Vice-President, VALENTINE REMMEL.	For Vice-President, HENRY B. METCALF.	For Vice-President, JOB HARRIMAN.	
For Elector of President and Vice-President, EDWARD N. BUTLER.	For Elector of President and Vice-President, FREDERICK COOKE.	For Elector of President and Vice-President, CHARLES W. HOUSE.	For Elector of President and Vice-President, FRANCIS E. BALDWIN.	For Elector of President and Vice-President, CHARLES H. MATTHEW.	For Elector of President and Vice-President,
FRANCIS B. MITCHELL.	ROBERT C. TITUS.	MAZ FORKER.	WILLIAM W. SMITH.	CARL VOSS.	
SAMUEL J. UNDERHILL.	ISRAEL J. MERRITT.	CHRISTIAN BAKER.	HENRY N. RANDALL.	JULIUS HALEFERN.	
SAMUEL HOWLAND.	EDWIN KEMPTON.	CHARLES VOLLMER.	ISAAC E. FINE.	VALENTINE S. WORTH.	
MICHAEL J. DADY.	EDWARD KAUFMANN.	JAMES DYANE.	BENJAMIN BETHELSON.	PETER E. BURROWS.	
CHARLES H. RUSSELL.	MERRY STOKES, JR.	ARCHIE JARROLO.	ROBERT T. STOKES.	ARTHUR R. HAYWARD.	
JOHN KISSEL.	WILLIAM J. SEATON.	CHARLES P. A. WALSH.	EDWARD A. SWITZ, JR.	ALFRED R. FITTIT.	
HENRY C. FISCHER.	AUDOLPH GASTNER BACHER.	PETER FLEISCHER.	WILLIAM E. BROWN.	THOMAS FENDEGAST.	
JOSEPH SHADON.	JOHN E. WALSH.	JOHN KELLY.	ROBERT SCOTT.	FRANZ W. GASTEIGER.	
WILLIAM B. BIDDINGS.	SAMUEL BAKER.	RICHARD GOULD.	CHARLES W. McLELLAN.	WILLIAM WOLLNIK.	
HERMAN J. KATZ.	MICHAEL H. WHALEN.	EPHRAIM SHIFF.	TIMOTHY W. HOLDEN.	HENRY O. VITALIS.	
FRANK TILFORD.	RICHARD STEPHENSON.	JOHN McELROY.	GEORGE CETHIK.	HENRY O. JACKSON.	
SAMUEL S. KOTHING.	MICHAEL P. LYONS.	RICHARD HUNTER.	ENDRY CUMMINGS.	JAMES W. BURTON.	
ARTHUR P. STURGES.	HENRY HACHEMISTER.	CHARLES KEENEY.	JOHN MERT.	ANTHONY J. OSGERGER.	
JAMES YEABANCE.	JOHN J. HARRINGTON.	CHARLES C. CRAWFORD.	CHARLES E. LATHIER.	HENRY LUX.	
CHARLES W. BLOOMINGDALE.	CHARLES FREDERICK HARTING.	FREDERICK C. PULLING.	JEREMIAH T. BROOKS.	HERMAN GAZDAR.	
WILLIAM SHREER.	JOHN McQUADE.	LEON E. FILGUT.	ALBERT T. HULL.	HANS REDERIC.	
FRANK V. WILLARD.	JOHN BRUSH WALKER.	MAGNUS SVENSON.	CLARENCE M. LYON.	FRANK HERPMAN.	
CLARENCE LEXON.	EDWARD STOCKER.	GEORGE ANSELON.	JAMES C. RIDER.	WILLIAM WINKELMAN.	
JOHN M. CORDTS.	JOHN C. MOONSHIRE.	OWEN CARRAHER.	MITCHELL DOWNING.	RICHARD KITCHELL.	
PETER McCRIMMON.	THOMAS N. CAMPTON.	MATTHEW STEEL.	MATTHEW STEEL.	WILLIAM LIPFILL.	
SAMUEL E. MUNSON.	WILLIAM H. REEDEL.	ALBERT W. BROWER.	LEVI EDWARDS.	WILLIAM McWHITT.	
WILLIAM S. C. WILEY.	ROBERT WEMPLE.	EDUARD BULLENT.	SPENCER BELLINGHAM.	FRANK SCHMIDT.	
ROYAL NEWTON.	CHARLES OSCAR McKEEDY.	CHRISTIAN MAHE.	WILLIAM H. PLACE.	CHRISTIAN WARD.	
WILLIAM T. OWELL.	HENRY E. BARNARD.	CHRISTIAN ROSSBACH.	JOVATHAN E. HOAG.	JOHN H. BALLARD.	
DAVID M. ANDERSON.	LAURENCE CLANCY.	JAMES A. TRASHOR.	FREDERICK E. DEVENORFF.	AMERZO H. BUTTERFIELD.	
ROBERT McCRIMMON.	ABRAHAM E. WEAVER.	GEORGE E. COFFIN.	WILLIAM C. GRAY.	CHARLES WILLIAMSON.	
WILLIAM G. PHELPS.	THOMAS REEVE.	FRANK DANKHOFF.	EDWARD H. MILLER.	CHARLES H. WHEELER.	
RANSOM E. TRUE.	GEORGE WELLS SALLISBURY.	JAMES S. WHITE.	ARTHUR HAY.	CHARLES S. WILSON.	
ROBERT BUSHBY.	JAMES H. MILNE.	JOHN H. MORRIS.	JOHN W. BARBAUS.	JACOB THISEN.	
FRANKLIN D. STEENWOOD.	ROSENA H. ROCKWELL.	ELMER HARRISON.	CASPER F. DECKER.	GEORGE C. JONES.	
CHARLES F. FREDRICK.	JAMES J. MARMON.	ROBERT WILL.	WILLIAM E. BOOTH.	JOSEPH G. O'NEILL.	
GEORGE EASTMAN.	JAMES E. COMLEY.	CHARLES A. FURY.	BENJAMIN C. MONTGOMERY.	GEORGE L. WASHBURN.	
CHRISTIAN KLINCK.	WILLIAM SIMON.	CHARLES NELSON.	EDWIN PUEBY.	HERMAN REICH.	
GEORGE URSAN, JR.	JOHN McLAINE WILEY.	JAMES W. SHARPE.	JOSEPH H. SHEARER.	JULIUS GEBER.	
HERBERT C. RICH.	DANIEL P. TOOMEY.	ROBERT JOHNSON.	JOHN McNICOLSON.	ADOLPH JABLONOWSKI.	
For Governor, BENJAMIN E. ODELL, JR.	For Governor, JOHN B. STANFIELD.	For Governor, CHARLES H. COFFMAN.	For Governor, WILLIAM T. BARWELL.	For Governor, BENJAMIN BARFORD.	For Governor,
For Lieutenant Governor, TIMOTHY T. WOODSUFF.	For Lieutenant Governor, WILLIAM F. HACKETT.	For Lieutenant Governor, LEONARD ARNOLD.	For Lieutenant Governor, ALBERT J. BUREY.	For Lieutenant Governor, WILLIAM F. FISCHER.	For Lieutenant Governor,
For Secretary of State, JOHN T. McDONOUGH.	For Secretary of State, JOHN T. McDONOUGH.	For Secretary of State, JOSEPH E. SMITH.	For Secretary of State, JOSEPH V. BAKER.	For Secretary of State, PHILIP JACKSON.	For Secretary of State,
For Comptroller, ERASTUS C. KILBETH.	For Comptroller, EDWARD A. KILBETH.	For Comptroller, ALFRED A. KILBETH.	For Comptroller, MAISON H. WELLS.	For Comptroller, FRANK A. STEVENSON.	For Comptroller,
For Treasurer, JOHN F. JACOBEL.	For Treasurer, JOHN BROWN JUDSON.	For Treasurer, JACOB E. ALEXANDER.	For Treasurer, FRED WILLIAM NEWETT.	For Treasurer, LEONARD D. ABBOTT.	For Treasurer,
For Attorney General, THOMAS J. COVAY.	For Attorney General, THOMAS J. COVAY.	For Attorney General, JUSTUS BEEST.	For Attorney General, GERTIE G. LYON.	For Attorney General, HENRY SLOVICIN.	For Attorney General,
For State Engineer and Surveyor, EDWARD A. BOND.	For State Engineer and Surveyor, EDWARD A. BOND.	For State Engineer and Surveyor, JOHN E. WALLACE.	For State Engineer and Surveyor, EMMETT F. SMITH.	For State Engineer and Surveyor, HENRY STALL.	For State Engineer and Surveyor,
For Representative in Congress, GEORGE H. BOUTWICK.	For Representative in Congress, MARTIN H. CLAY.	For Representative in Congress, WILLIAM McWHITT.	For Representative in Congress, WM. W. GODDARD.	For Representative in Congress, HENRY STALL.	For Representative in Congress,
For Senator, JAMES S. McNEAN.	For Senator, CURTIS H. DOUGLAS.	For Senator, RICHARD G. COON.	For Senator, ISAAC S. ALBERT.	For Senator, JOHN H. FITCH.	For Senator,
For District Attorney, THOMAS McNEARY.	For District Attorney, MICHAEL J. DUFFY.	For District Attorney, WILLIAM McWHITT.	For District Attorney, JOHN H. FITCH.	For District Attorney, JOHN H. FITCH.	For District Attorney,
For Member of Assembly, THOMAS C. RICE.	For Member of Assembly, JOHN P. GOREY.	For Member of Assembly, JOHN P. GOREY.	For Member of Assembly, JOHN P. GOREY.	For Member of Assembly, JOHN P. GOREY.	For Member of Assembly,

Filing and Publication of Nominations.—When the nominations are once made by the primaries, conventions, and independent groups of voters, they must be filed with the proper officials and published in a certain number of newspapers at specified times before the election. Nominations for offices for which the whole State is the district must be filed with the Secretary of State; those for offices for which the district is larger than the county must be filed with the Secretary of State and the county clerks of all counties in the district; those for town, village, and city offices with the clerks of those places; those for all other offices with the county clerk. The county clerk sees to the publication of all nominations except those for town, village, and city offices. The clerks of these respective places attend to the posting or publishing of these.

The Ballot.—All the nominations thus filed are printed at public expense on a single sheet of paper. The arrangement is specified by law, and the ballot is known as the “Australian ballot,” because the form was invented in Australia. Each organized party has a special column in which its nominations are placed, and at the top of each column is an emblem, such as a star, or an eagle, by which the voter can easily recognize the column of his party. Under each emblem is a circle and in front of each name is a little square, for the purpose of enabling a voter to vote a “straight” or a “split” ticket. Independent nominations have a column of their own, and there is in addition a blank column in which a voter may put down the name of any man for whom he wishes to vote for any of the offices.

Time of Election.—Everything from the point of view of nominations is now in readiness. Almost all that we have been studying has been done outside of the control of the State, with the view to getting certain men elected on election day. The time of election and almost all of the election machinery which is now to be described is a matter of State law. Election day comes annually on the Tuesday next after the first Monday in November. To enable every voter to cast his vote the day is made a holiday, and the voting places remain open from six o'clock in the morning until five o'clock in the afternoon.

Election Districts.—For the convenience of voting and counting the votes the State Legislature has provided for the division of the territory of the whole State into election districts. These contain approximately four hundred voters, but in area they naturally vary from a whole town to a portion of a city block. In each of these there is a designated place where voters register and cast their ballots. To vote in a district a voter must have been in residence there thirty days previous to election day. If he has moved into the district within the period of thirty days previous to election day he loses his vote altogether.

Registration and Election.—To attend to the business of registration and voting in a district there are appointed by the local authorities: (1) Four inspectors; (2) two poll clerks; and (3) two ballot clerks, each class being equally divided between the two largest political parties. The four inspectors form a "Board of Registry." It is their duty to hold from two to four meetings at certain intervals previous to the election, and register the quali-

fied voters of the district who put in an appearance to be registered. Any voter who fails to register at one of the times set loses his vote at the election. (This does not hold true of small villages and towns.) These same four inspectors are also known as a "Board of Inspectors," and as such have charge of making all arrangements for the election in the district, and of the order at the polling place. In the place where the election is to be held they have to provide ballot boxes, to see that enclosed booths are set up where the voter may prepare his ballot in secret, and to set off by railings spaces in which are allowed only the election officers, two watchers sent by each party to challenge illegal voters, and the voter himself. The election officers group themselves about a table in the area enclosed by railings, and are ready to receive the voter.

Voting.—The voter enters the polling place, joins the line of waiting voters, if others are before him, and in his turn gives his name. If the inspectors find his name on the registration list of voters, the poll clerks enter his name opposite a number on the poll list, and the ballot clerks then give him a ballot which has the same number on it. This is on the outside at the top, so that the portion containing it can easily be torn off without affecting the portion on which the names of candidates appear. The voter takes his ballot into one of the enclosed booths and closes the door. On a little shelf-desk, where there is a black pencil provided, he proceeds to mark his ballot. If he wishes to vote a straight ticket, that is, for all the names in a party column, he puts an X in the circle at the head of the column. If he wishes to vote a split ticket, that is,

for candidates of different parties, he makes a cross before the name of each candidate for whom he votes. If the column in which he has put an X in the circle contains the name of a candidate for office for whom he does not wish to vote, he may put an X opposite the name of a candidate for the same office in another party column, or may write the name of a candidate under the office in the blank column. If any mark except the cross is used, or if any erasure is made, the vote will not be counted. If the voter tears, defaces, or wrongly marks the ballot he should return it and obtain another. When he has properly marked his ballot he folds it and passes out of the booth. He gives his ballot to the inspector in charge of the ballot box, who tears off the portion with the number on it and puts it into one box, and the portion with the names and crosses on it into the ballot box proper. The object of the number is to show who in the district has actually voted and deposited his ballot, and also to prevent another man from coming and trying to vote under a name not his own. As the portion with the vote on it is not numbered, however, no one can tell how a man voted.

The Voting Machine.—In some districts machines are used for voting instead of ballots. They have all the advantages of the ballot, and at the same time show the results of the voting as soon as the polling places are closed. It seems probable that they may gradually be put in use everywhere.

Challenging Votes.—It is the business of the “watchers” at the polls to try to detect illegal voters. If they

suspect a man they may challenge him. If he then insists on voting, he must, in order to do so, take an oath to the effect that he has the qualifications in that district. If it is subsequently proven that he has taken a false oath, he is liable to imprisonment. Any qualified voter may also challenge another voter.

The Canvass.—As soon as the polls are closed the work of counting the votes begins. This is done publicly by the election inspectors. The results from each district are forwarded to the county clerk. He tabulates the results and presents them to the supervisors of the county, who for this purpose are known as the Board of County Canvassers. This board reviews the results from the county. The county clerk makes known the county officers elected. The results from each county are filed with the State Board of Canvassers, which consists of the Secretary of State and four other executive officers of the State. This board summarizes the results received from the counties, and the Secretary of State sends a certificate of election to the candidate who has received the greatest number of votes for the office for which he has been running.¹

Publicity.—All of the proceedings connected with the counting of the ballots have to be conducted with the utmost publicity. The results are made known, and the enterprising newspaper press publishes the results long before the official certificates are sent to the successful candidates.

¹ For most offices a majority of the votes cast is not required for election, but only a "plurality"—that is, the highest number. A majority means more than one-half of the total number of votes cast.

Disputed Elections and Recounts.—When elections are close, that is, when the man elected has only a few more votes than his nearest competitor, the latter is likely to dispute the election on various grounds and to ask an order from the Supreme Court calling for a recount. This recount is usually demanded with the hope of finding that some ballots have been counted for opponents which should have been thrown out on account of defects, or that others for the defeated candidate, which are not defective, have nevertheless been thrown out on the ground of supposed defects. Sometimes a recount is demanded with the hope of finding whether a certain voter who was bribed to vote a certain way actually did so.

The Object of these Complex Regulations.—The object of all this complex machinery is to prevent fraud. Men will try to bribe other men to vote for them, to get men to vote twice (repeaters), to have men vote who have no right to vote (colopizers), and to “stuff” the ballot box, that is, put in more than one ballot. The whole system of voting which we have described is to defeat such unfair tactics.

Existing Frauds.—With all the machinery of elections, however, there is still a certain amount of fraud. Most of the practices which we have mentioned above still go on to a slight extent. Marking the ballot with very small dots, or making small slits at certain agreed-upon places in the ballot, are devices employed by the corrupt to show to those who look over the ballots, on the first count, or on a recount, that they have voted as they were paid to vote. The only remedy against such fraud is to throw out all ballots which show even the slightest mark or tear.

The New York System.—Fraudulent voting in this State, however, has been reduced to a minimum, and this is due to the very machinery of voting which we have described. The system of voting in this State is undoubtedly among the best in use in the country.

Election Expenses.—The expenses in connection with the taking and counting of votes are borne by the public, but those in connection with party nominations have to be borne by the parties. They rely upon contributions from the members of the party, but large sums of money are said to be subscribed by big corporations. These are usually made with the hope of either getting favorable or of preventing unfavorable legislation by the party in case its candidates are elected to office. For this purpose it is said that some business men and organizations contribute to the election campaign funds of each of the two great parties.

Legitimate Uses of Campaign Funds.—Enormous sums are spent in perfectly legal ways. Many letters, pamphlets, and even books are printed and sent to voters to persuade them to vote for the party's candidates. Postage, the rent of rooms for headquarters, and wages of clerks to address mail matter call for vast sums. Notices in the newspapers and the placarding of billboards take a great deal of money.

Illegitimate Uses of Campaign Funds.—Some money is spent in ways which are prohibited by law, because they undermine the very basis of our democratic government. Anyone who directly or indirectly receives, or pays, or promises to pay to another any money, or other valuable

thing as a compensation or reward for the giving or withholding of a vote at election is liable to fine and imprisonment. This is meant to prevent the illegitimate use of campaign funds by the parties and the candidates. The latter are further restricted by being required by law to render an itemized statement of the money they have spent during the election.

Nominations and Elections in Actual Practice.—In nominations and elections the practice differs from the theory much in the same way we saw that it did in the various departments of government. The cause for the difference is the same in both instances. It is the failure of certain citizens to take the interest they should in the nominations and elections.

The Primary in Practice.—We saw that many voters absented themselves from the town meeting because they felt that they would be outvoted. Thus the government of the town fell to those who were least fit to control it. The same thing happens at the primary. The voters do not all meet together at some specified time and make nominations or choose delegates as is done in our debating societies. They straggle in at odd times and place in the ballot box the names of such men as they wish to vote for. These are printed on a ballot prepared by local politicians who are interested in getting or retaining the leadership. In the large cities the voter at the primary frequently does not know by sight or by reputation any of the men for whom he votes. Many voters who should attend and use their influence for good never go to one. The result is that its control falls into the

hands of those who make a business of politics. These men meet beforehand, make up a ticket or "slate" of their own, and being well organized carry all before them. The few outside of this group who do show up at the primary have given no attention to the matter at all, have not even thought of anybody whom they would like to have for local officers or for delegates to a convention, and have no choice except to vote for men whom they do not want. They grumble, say everything is "cut and dried," and join the number of those who never go to a primary, never realizing that it is they themselves who are to blame for the condition of affairs. The result of all this is that a well-organized minority of the voters in the district run a party machine there. As the primaries are the foundations of the whole system of party nominations and elections, the party itself all over the State, and even the nation, falls into the control of a vast "machine" headed by a "boss." Those who wish to break his control must first get control at the primaries by getting out the "stay-at-home" voters.

The Machine.—The machine is a term used to designate a body of voters in a party who stick by each other "through thick and thin." This policy enables them to control the party, even though in numbers they may form only a small minority. As their opponents have no organization and do not "stick together," they have no chance to get anybody nominated on the ticket. Failing in this they have to vote for the machine's candidates, vote with another party, or not vote at all. As the other party is just as likely to be controlled by a machine as their own, they stay at home and do not vote at all. Their

withdrawal thus throws the control of nominations and elections into the hands of the machine and the boss.

The Boss.—The boss is the term used to describe the most prominent leader of the party machine in any district. Thus the machine in the primary will have its boss, the county machine has its boss, and so on up to the State machine and the State boss.

The term boss has come to have a bad meaning, that is, that the leader thus described is politically corrupt. Such, however, is not always the case. There are many leaders called bosses who are honest men. The truth of the matter is that democratic government cannot be run without parties, and parties cannot be run without leaders.

The Good in Our Party System.—The organization of parties enables us to run the government successfully. Men from the parties are grouped together to carry out certain policies which they believe to be for the best interests of the country and the people. If they can succeed in getting a majority of the voters to believe with them, the control of the government will be put into the hands of officials elected by them. If not, it will go into the control of another party. Without parties our government would be but a poor affair, following no settled policy, doing one thing one day and another the next, without having any principle or plans of action.

Evils of the Party System.—The objection to our parties of to-day is that they are largely run by dictation from a party boss, and that they have the expenditure of vast sums of money. The members of a party, above all things, wish to be regular. They do not wish to "bolt"

their party. This is why they follow the commands of a boss when they inwardly feel that he is wrong, and that what he dictates is not for their own best good or for the good of the general public. The boss who has this control over the members of the party is thus able to control the government officials elected by the party. These officials must do his bidding and pass laws at his dictation, or run the risk of being defeated at the next nominations for office. This means the loss of a whole future career for them, and they usually end by doing as the boss dictates.

Money Power.—The orders of the corrupt boss are usually in the interest of individuals or corporations who have aided the party by contributions for the election expenses. These contributions being made with a view to having favorable laws put through, or adverse legislation defeated, in case the party is victorious in the election, the boss has to see that the wishes of these individuals or corporations are attended to by the officials whom his party has elected. Individuals or corporations desiring such measures usually approach the party boss, and, by direct or indirect pressure, by means of money or otherwise, get his support. The measures are then “jammed” through by the officials. Whether they are for the best interests of the public or not is a question little considered.

Party Reform.—To reform such evils it is not necessary to do away with political parties or political leaders. In fact, as we have seen, it would be impossible to do without them in a democratic government. What we must do is to get better leaders. To get them all of our voters

must go to the primaries, for that is where all reforms which are to be lasting must start. Even if, for the time being, the best men of the party are voted down at the primaries, it cannot be for long. If the voters in a party are bad, and the leaders are bad, the government, if they win in the elections, will be bad, that is, against the interests of the general public. No party which runs the government in that way will stay long in power. The best elements will at last desert it, and it will lose the election, the winning of which is the main object of party organization. To get back into power the party will have to improve. Little good can be done by finding fault and doing nothing. He who really wishes good government will start at the primaries *to reform the parties from within*. Good parties nominate good men for office, and with good nominations comes a chance for good government.

Elimination of the Money Power.—With good members and good leaders, corrupt men and corporations would have little chance of getting bad laws put through or good ones defeated. To settle the question, however, it would be well to have a law passed compelling political parties to publish an itemized statement of receipts and expenditures during election campaigns. The public would then know from whom money was received and how it was spent.

The Use of Independent Nominations.—When all else fails and the party organizations seem determined to thwart the will of the people, there is always the independent nomination to fall back upon. By this means, if

the people are sufficiently roused, the right man can be put into office in spite of the machine.

Attendance at Elections.—The duty of the good citizen does not end with the primary. He must not allow anything to interfere with his going to the polls and casting his vote on election day. To get a good man nominated for office is well enough, but to elect him is better.

Education of the Voter.—Education, unfortunately, does not make party men honest. Some of our most dishonest political leaders have been graduates of colleges. Education, however, probably makes the average man more straightforward than he would have been without it. For the cause of good government the education of the voter accomplishes a still greater good than even that. A man who is educated is able to see clearly whether what is proposed by political leaders or officials is going to be to his good or his harm. He is enabled to “know what is what,” as the saying goes, and will not permit himself to be led along blindly by the false arguments of some unscrupulous party leader.

SUGGESTIVE QUESTIONS.

1. Obtain sample copies of official ballots, and learn how straight and split tickets are voted.
2. Make a diagram of the voting booth, and go through the details of the voting process.
3. Give all the reasons you can think of why the law insures secrecy of the ballot.
4. Attend a caucus, or primary, and a convention, and write a description of them.
5. Get newspaper accounts of the various conventions which are mentioned in this chapter.

CHAPTER XI.

LOCAL TAXATION

Necessity for Taxation.—We must have a government, and a government costs money. The salaries of officials and the erection of public buildings, the laying out and caring for roads and streets, the supplying of water and a thousand and one things demand the expenditure of a great deal of money. For all of these the citizen must pay, directly or indirectly. He could, if it were convenient, carry his own water, pave his own street, and do many other things which are now done for him. He would have to give up his own business to do them, and thereby lose the money he was making in it, and even then he would not be able to do all that is now done for him. In other words, he finds it easier and cheaper to pursue his own business or profession, and to employ the government to do the other things. The payments he makes to the government are known as taxes.

Who Pays Taxes.—Some people have an idea that only those who make money payments to the tax collectors pay taxes. This is a most unfortunate idea, because it leads some to think that they are getting something for nothing, and makes them indifferent to the lavish expenditures by the government because they think they are not paying for it. We never get anything for nothing. All of us pay taxes whether we pay them directly to the

tax collector or otherwise. Each one of us pays a certain amount for the education we get, for the paving of the roads, for the building of bridges, etc. We may not do this directly, but we do it. If we own a house, or a lot, or a store, or a manufacturing establishment, we do it directly by paying money to the tax collector. If we do not own anything, but simply work for wages and pay for our board and room, or our house rent, we pay taxes indirectly. When the landlord calculates how much he is going to charge for rent, he takes into consideration how much his taxes are, and we pay our share of taxes in the rent we pay. In the price of everything we buy there is a certain portion which goes for taxes. If the landlord and the storekeeper had to pay no taxes, rent and prices of goods would be reduced. If taxes are increased, rents and prices will go up.¹ Even educational and religious institutions, which are exempted from paying direct taxes, have to pay them indirectly in the ways we have mentioned. So all of us, unless we are actually supported by the State in some charitable institution, or are dependent upon others for our support, pay taxes.

Property Tax.—The property tax is the direct tax which is levied in our State on what is known as “realty,” that is, land, houses, barns, and the like, and on “personalty,” that is, on movable property—such as money, jewelry, furniture, pictures, horses, carriages, and the like. On these the owner pays a direct tax to the tax collector. A tax is levied on property in proportion to its value, because it is thought that each owner of prop-

¹ There are many other items which determine rents and prices, and these statements are true only when we omit such items from consideration.

erty receives protection and service from the government in such proportion.

Exemptions from Taxation.—There are, however, many different kinds of property which the government exempts from taxation. A few of such kinds are the real and personal property of educational, religious, charitable, and scientific organizations, deposits in savings banks, United States bonds, and certain State and city bonds.

Assessment of Property.—The question, then, is to determine what the value of property is. Certain officials every year place a value on the realty and personalty in their districts. This is called an “assessment,” the paper or book on which it is made is called an “assessment roll,” and the officials are called “assessors.”

The Tax Districts.—The districts over which the assessors work are known as “tax districts.” These are political subdivisions of the State having a board of assessors authorized by law to assess the property therein for State and county taxes. These districts, then, are the towns and cities of the State.

Contents of the Assessment Roll.—The assessment roll contains the names of all taxable persons and corporations in the district, and a list of the real and personal property owned by each, with its value. After the roll is completed and published, the persons whose property is valued are given an opportunity to appear and make complaints about errors in the assessment, and to ask for corrections. The corrected roll is then sent to the County Board of Equalization.

County Board of Equalization.—There is a tendency on the part of the assessors in tax districts to “undervalue” the property in the district, so as to make taxation light for their districts. In view of this fact, all of the assessment rolls of the tax districts of the county are put into the hands of the Board of Supervisors of the county, whose business it is to “equalize” the assessments, so that the taxes will not bear unjustly on any district. In New York City the boroughs are used for purposes of assessment and the city department of taxes and assessments “equalizes” the returns. This does not mean that the valuations from every district are to be made equal in amount, but simply that, if the real and personal property in one district are more valuable than in another, such a fact shall be shown on the assessment roll. Then when the taxes are levied the wealthy district will have to pay a larger sum total of taxes than the poorer district, but the rate of taxation will be the same. If such equalization did not take place, it would be found at times that poor districts would be put down as having the same or even greater valuation in taxable property than the wealthy districts.

State Board of Equalization.—The assessment rolls of the counties are then sent to the State Board of Equalization, whose business it is to equalize them for the whole State in the same way that the county boards did for the counties. The State Board of Equalization consists of the three Tax Commissioners, who have general supervision over taxation in the State, and the seven executive officials who form the Land Office Commission.

Computing the Taxes.—On the basis of the valuations

of property as set forth in the assessment rolls coming from the State Board of Equalization, several distinct taxes are levied. First there is the State tax, then the county tax, then the town or city tax, and each village also has its tax.

State Tax.—The State Comptroller makes an estimate of how large a sum the State needs from the property tax, and then divides this sum among the counties in proportion to the value of the property which each county is shown to have by the assessment roll. The amount which each county is to contribute to the State tax is made known to the county clerk and board of supervisors of the county.

County Tax.—The Board of Supervisors of the county calculates the amount of money they will need from the property tax to pay the expenses of the county. To this amount they add the amount which the State Comptroller has informed them they must raise for the State. The board then divides the sum among the tax districts of the county in proportion to the assessed value of property in them.

Town Tax.—As we saw above, the ordinary tax district is the town. There is a certain amount of taxes which each town has to raise each year for its own expenses. To this amount is added the amount which the Board of Supervisors has informed each town that it must raise. The sum is then divided among the property owners of the town in proportion to the amount of property which each has. So the sum which each property holder

pays is really made up of three portions: (1) For town expenses; (2) for county expenses; (3) for State expenses.

City Tax.—Earlier we saw that when a city government was formed over a certain area the town organization in that area was given up entirely. For that reason the city is made into a tax district for the area which it covers. Like the town it has to estimate the amount of its running expenses, and to find out what amount is to be paid for by the property tax. To this amount is added the amount required as its portion of the county and State tax. The sum is then divided among the property owners in proportion to the value of their property.

Village Tax.—The man who lives in a village is a citizen of the village, of the town, and of the county in which the village is located, and also of the State. Thus he has really four taxes to pay. Those for the State, county, and town are collected by the method which we have studied above. In addition to these there is a village tax for village expenses. This is usually, but not necessarily, collected at a different time from that at which the other three are collected.

Collection of Taxes.—With the final calculation of what each individual is to pay we have the "tax roll" complete. This contains a list of property owners, the description and valuation of their property, and the tax to be collected from each. This is placed in the hands of the collector of taxes for the tax district. He gives public notification of that fact, and gives an opportunity for all those assessed to come and pay their taxes. If, at the end

of a month, these are not paid, the collector or his agent calls upon the property owner for the amount of taxes due. If they are then not paid, proceedings are begun by which the property of such a person may be "sold for taxes." The process by which this may be done is too complicated for explanation here. All that the authorities are interested in is to get the amount of the taxes. This they aim to do by giving the delinquent property owner as little trouble as possible.

Division of the Proceeds of Taxation.—When the taxes are finally collected, they are distributed among the several officials who are specified by law or the Constitution to receive them. The State, county, town, city, and village treasuries receive their shares and pay them out on requisition for the expenses of their respective districts.

Other Taxes.—Besides the property tax there are other sources from which the government gets revenue. The most important of these are the excise tax, the inheritance tax, and the corporation tax. The excise tax is that which a dealer in liquors has to pay for the privilege. One-third of this goes to support the State, and the other two-thirds goes to the town or city in which the liquor store is located. The inheritance tax is that which must be paid upon property left by a deceased person, provided the property is above a certain amount in value. The corporation tax is that which is paid by corporations: (1) When they are organized; (2) when corporations organized in other States wish to do business in this; (3) when certain corporations, such as insurance companies, railroad companies, and others have to pay a certain amount

on their annual incomes. In addition to all these there is another tax, recently declared constitutional, called the "franchise tax," which goes to the political division of the State that grants the franchise. A franchise may be defined as a certain privilege granted by the State, or a political division of the State, to a corporation or individual to carry on business of a certain kind. Such privileges are those granted to gas companies to use the streets for their pipes, to street railway companies to use the streets for laying down their tracks and other like privileges. These privileges, being almost exclusive, come to have great value and the government has imposed a tax on them.

Cost of Collecting Taxes.—The most inexpensive taxes to collect are the last two mentioned. The cost of collecting them is only a very small percentage of the amount received. The property tax and the excise tax are more expensive to collect. It requires more officials to get them because the process is more complicated. However, we collect our property tax more cheaply than most European countries do. Our system of assessment and collection is practically carried out by one set of officials, and the expenses are thereby reduced to the smallest possible figure.

Faults of Our System.—The faults of our system may be stated under four headings: (1) Undervaluation; (2) concealment of personalty; (3) tax dodging; (4) differences in tax rate.

Undervaluation.—Of undervaluation by assessors we have already spoken. It is an evil that the boards of

equalization try to do away with. They succeed to a certain extent, but there is always a certain amount of undervaluation going on which makes taxes for others heavier than they should be.

Concealment of Personalty.—Realty cannot be concealed, but money, bonds, jewelry, and most property which we know as personalty can be so easily concealed that it may be safely stated that there are but few people who make known to the assessors all of their personalty. The absolutely honest people who declare their property are at a disadvantage compared with the dishonest. Many authorities think this tax on personalty encourages dishonesty and favor its repeal. There is a penalty for making false declaration of the amount of personal property, but the offense is so difficult to prove that practically no one is ever tried and punished for it.

Tax Dodging.—Tax dodging has many meanings. It may mean simply concealment of personalty, but it is more frequently applied to the system used by certain people who, though really living in one place where the taxes happen to be high, make their legal residence in a place where they are low. This enables them to pay a low assessment on their personalty. Tax dodging of this sort is most common in New York City. A recently proposed law has made personalty taxable where it is located, and not where the owner resides. It is hoped that this will stop tax dodging to a certain extent.

Difference in Tax Rates.—Tax rate is the term applied to the percentage which a property owner has to pay in

taxes. Thus if the tax rate is 0.014, the property owner will have to pay at the rate of \$1.40 on a hundred dollars worth of property, or \$14 on a thousand dollars worth. In the city, where the property owner has much more done for him by the government than in the town, taxes are usually much higher. The State tax is, of course, the same over the whole State, the county tax is the same over the whole county, but the rates for different counties differ. What is true of the counties is true of the towns, cities, and villages. Thus in different parts of the State the tax rates vary. It may be at the rate of \$24 on a thousand in a city and only \$14 on a thousand in a town. This leads some localities to feel that they are being unfairly treated, but further consideration will show that the difference is due not so much to what the State and county impose as to what the town or city or village imposes in the way of taxes.

Should Everybody Pay a Direct Tax?—We have already seen that we all pay taxes directly or indirectly. Governments under tyrants always favored indirect taxes because the people did not realize that they were paying them, and were kept contented. In democracies there is no occasion for keeping indirect taxes for such a reason. When every man shares in the government, he should understand it in all its workings. He should know from the very start that the needs which the government supplies cost money. Anything which tends to obscure that fact should be done away with as much as possible. Some think that the only way to make everybody realize that he pays to support the government is by means of direct taxes. Those who have to pay money directly to

the government are far more likely to be thoroughly interested in seeing it economically and well run.

SUGGESTIVE QUESTIONS.

1. What reasons can you give for exempting from taxation the various kinds of property mentioned in this chapter?
2. Get facts concerning the prevailing practice of valuing property in your own and neighboring localities.
3. If a man's property is valued at \$1,000, when it should be \$2,000, does he pay his fair share of the county tax? Can the county board correct the matter?
4. Do the equalized valuations fixed by your county board seem reasonable?
5. What was the amount of State tax paid by your county last year? The amount of county tax? Make a calculation showing how the amount of State and county tax due from your local government was determined.
6. Your local treasurer will give the necessary data from which you may calculate the rate of taxation. Calculate the taxes upon property that is worth \$6,000.
7. State reasons why the tax rate varies in different towns; in adjoining counties.
8. From what sources does money come into your local treasury?
9. For what purposes was money expended in each case? These facts may be found in the last reports of the local and county treasurers.
10. Find out the difference between "direct" and "indirect" taxes. Does New York State impose any indirect taxes? Does the Federal Government? Give some examples of indirect taxes. Who pays them?

CHAPTER XII.

STATE FINANCE

Definition of State Finance.—In general State finance may be said to refer to the receipt and expenditure of money for State purposes. In a way this also includes the raising of taxes, but as the method of raising State taxes also involves the raising of county, town, city, and village taxes, we treated them all in a separate chapter on taxation.

Income of the State.—The State property tax forms a very small portion of the income of the State, but there are other sources of income, such as the excise, inheritance, and corporation taxes. In addition to all these, the State has the income from funds which were invested many years ago to yield interest to be devoted to certain purposes. Some of these funds are known as the Common School Fund and Literature Fund. The total income of the State amounts to over twenty-five millions a year. Of this a little over a million is derived from funds and miscellaneous sources, and the rest comes from taxes. In taxes the State gets less than a million from the general property tax, about nine millions from the excise, five millions from the inheritance, seven millions from corporations, and the rest from miscellaneous fees, fines, etc.

The State Treasurer.—The State Treasurer is the custodian of the income of the State. He keeps account of all moneys paid into the State treasury, or paid out of it. For the purposes of bookkeeping, the moneys in the treasury are divided into funds. There is the general fund which is to be used for general expenses, the school fund to be used for the schools, the canal fund for the canals, and many others. When any money is received or paid out it is put down as being received by, or paid from, some particular fund. Of all his transactions he keeps an accurate account and presents an annual report to the Legislature.

The State Comptroller —The Treasurer cannot pay out any money from the treasury without an order or warrant. This order comes from the State Comptroller. He, in his turn, cannot order money paid out unless the Legislature has appropriated it for the purpose for which it is to be paid. The Comptroller, like the Treasurer, has, therefore, to keep very careful accounts. It is his business to audit the accounts of all departments of State Government, to invest State moneys, and to take charge of the securities representing the investments.

The Budget.—In addition to the above duties of the Comptroller, it is his business to make every year an estimate of the expenses of the State Government. This he does by reference to the expenses of past years. In connection with this itemized statement of expenses, he sets down the estimated amounts of revenue which it is probable are to be derived from various sources in the coming year. The document so prepared is popu-

larly known as the "budget." It is presented to the Legislature for action. That body may increase or diminish the amount of any item called for in the expense estimate, or may insert new items, and whatever amount it passes is known as the appropriation for the account for which it is specified. If the amounts to be derived from the sources of revenue are not sufficient, the Legislature must devise new methods of taxation, or the amount to be derived from the general property tax must be increased. This will increase the State tax rate, and that is something the Legislature does not like to do, because it creates much objection from the property owners.

Expenditures.—The various departments of the State government need large appropriations of money. The salaries of the legislators and their clerks, the printing of the legislative proceedings and miscellaneous charges involve an expenditure of nearly one million for the legislative department. The salaries of the Governor and of various other executive officials and commissions involve an expenditure of about the same amount. The salaries of judges, court clerks, and others in connection with the Court of Appeals, the Supreme Court, and the Court of Claims makes the department of justice cost about one million. About five millions and a half are expended for public education, eight millions for charities and corrections, six and a half millions for the departments of health, agriculture, labor, and insurance, the militia, the forest and game commission, and a long list of others. In addition, there is about a million spent for miscellaneous items. All of these expenditures are

for the benefit, directly or indirectly, of all the citizens, and are properly borne by them.

Debts.—It is a good rule which says that no individual, corporation, or State should spend more than it receives. In the history of all of them, however, there are times when this rule must be broken. Certain extraordinary occasions arise, such as the outbreak of a war, or the construction of some great public work like the Erie Canal, which make it necessary to incur expenses for which the ordinary funds are not sufficient. Great sums of money have to be borrowed. This starts the State debt. Bonds are issued for the money borrowed, and interest must be paid on them until they are redeemed. Not only the citizens who are living at the time that the debt is contracted have to bear the burden of the debt, but also future generations of citizens. This is no more than fair, however, for those future generations are frequently far more benefited by the results of a war, or the building of some great work than are those who live at the time that the debt is contracted.

Restrictions on the Legislature.—The decision as to whether a debt should be incurred used to be left to the Legislature, but this was found to be unsafe. Legislatures have usually shown themselves to be rather extravagant bodies. We saw that the State Constitution had been so changed as to make it necessary for three-fifths of all the members elected to each house to be present when an appropriation bill was passed, and that to pass an appropriation for private or local purposes it is necessary to have a two-thirds majority of all members elected

to each house. It has also been found necessary to place in the Constitution certain further restrictions on the power of the Legislature over the people's money. It may, of course, not lend the public money to any individual or corporation. It may not contract debts to meet current expenses to an amount exceeding one million dollars, except in time of invasion, insurrection, or war. The money arising from loans creating such a debt shall be applied only to the purpose for which it was raised, or to repay the debt. Except the debts specified above, the Legislature may contract no other extraordinary debt unless authorized by law for a specified object, and not until the law so passed is submitted to the people and approved by them.

Sinking Fund.—The State Constitution also declares that a law which provides for the contraction of an extraordinary debt shall also make provision for the payment of it. The debt cannot be contracted for a longer period than eighteen years, and the law must provide for a direct annual tax to pay the interest and also the principal when it falls due. This is known as a “sinking fund,” because every year a certain amount is laid aside, and at the end of the period when the debt is due all of the yearly amounts added together just make up the amount of the debt. By the State Constitution these sinking funds must be kept separate from other funds under the control of the State.

Present State Debt.—The present debt of the State is about nine and one-half millions. Of this about half a million has been contracted for the National Guard, over

a half of a million for the Adirondack Park, and eight and one-half millions for the Erie Canal and its branches. The people have recently authorized the contraction of a debt of one hundred and one millions for making over the Erie Canal into a "Thousand-Ton Barge Canal."

History of State Finance. — The financial history of New York State has not always been marked by prudence either in the making of appropriations or in the contraction of debts. The Legislature frequently, and even the people at times, have shown themselves careless in these matters. Preceding the Civil War the expenditures were very heavy, and during the war they increased enormously. After the war a period of great political corruption in the State kept expenditures on the increase when they should have been decreasing. In recent years the expenditures have been kept down considerably, though there is an ever-growing tendency to spend more and more money.

Good Qualities of Our State Finance.—New York State, however, probably stands higher than other States in the Union in the management of its finances. If at times it has managed badly, the others have done worse. It was from New York State that the National government borrowed the banking system now the foundation of our National banks. Our system of State banks has been the model for other States to follow.

Faults of Our Financial System.—Provisions in the State Constitution have gone far toward making it impossible for the Legislature to do harm, but there are still some faults. In New York City we saw that the

Board of Aldermen could not add, or increase, items in appropriations asked for by the Board of Estimate and Apportionment. No such prohibition exists in the State Constitution against the Legislature. As a result that body sometimes votes to incur expenditures for which there is only doubtful need.

Should State Expenditures be High?—When we consider that it is our local governments, such as the county, town, city, and village, which do most for our immediate comfort, there seems to be little reason for the expenditure of enormous sums by the State. It has its functions, but there is a growing feeling that the local units should attend to local needs, and that one locality should not be called upon, through the State government, for taxes to bear the burdens of some less enterprising community.

Extravagance.—There is little doubt but that extravagance is the rule. When expenditures exceed the revenues, few are those legislators or officials who stand up for a reduction of expenses. Almost all of them seek for new methods of raising revenue, thus increasing, directly or indirectly, the taxes which every citizen must pay.

Causes.—The responsibility for this extravagance rests largely on the shoulders of the voters. It is in their power to stop it at any time. As we saw above, many of them do not realize that everybody in the State is affected by taxation and that any increase in it due to extravagance falls on all. Other groups of citizens are making constant demands on the State government. If any need arises their first cry is to get the State to attend to it.

Remedies.—The remedy here, as in the case of all our other faults, is the education of all to be intelligent voters. When that is accomplished, eternal vigilance on their part is necessary to see that their legislators and officials are good men and do their duty.

SUGGESTIVE QUESTIONS.

1. Find in the latest Legislative Manual the report of the State finances and compare the items with those given in this chapter.
2. What was the amount of the State tax levied in your county last year? Can you find out the amount paid by your local government?
3. What justification can you find for an inheritance tax?

CHAPTER XIII.

EDUCATION.

History of Education in New York State. — As compared with some of the other States of the Union, New York has at times lagged behind in matters of education. The early Dutch settlers encouraged it, but when the English came into control it was allowed to languish. In 1754, however, King's College, now Columbia University, was established in New York City. In 1784 the State Legislature established a corporation, known as the Regents of the University of the State of New York, to exercise a supervisory control over colleges and secondary schools in the State, but it was given nothing to do in connection with the lower schools. The Regents did such important work for education in the State that in the last State Constitution a provision was made for their continuance under the name of the University of the State of New York, with not less than nine Regents. Nothing was done for the lower or common schools by the State until 1795. In that year and subsequently appropriations were made by the Legislature to assist the counties in the maintenance of schools. The State gradually took more and more interest in lower schools until in 1844 a Normal School was established at Albany for the training of teachers, and in 1854 the office of State Superintendent of Public Instruction was established, and he was

given general charge over the common schools of the State. It was not until 1867, however, that the schools were made free, and now by a clause in the State Constitution it is made the duty of the Legislature to provide for free common schools in which all children of the State may be educated.

Recent Legislation.—There were thus really two educational departments in the State, each one independent of the other: (1) One under the control of the Board of Regents, having supervision over colleges, academies, high schools, and other educational institutions above the rank of the common schools; (2) the other under the control of the State Superintendent of Public Instruction, having supervision over the common schools and the training schools for teachers. There was one line of connection between the departments—the State Superintendent of Public Instruction was a member of the Board of Regents. Endless conflict between the two departments finally led the State Legislature in 1904 to pass a law considerably modifying the duties of supervision of the two departments, but scarcely changing the details of the educational system. The offices of State Superintendent of Public Instruction and of Secretary of the Board of Regents were abolished and their powers and duties given to a new officer—the State Commissioner of Education.

State Department of Education.—The State Department of Education comprises at present, then, three chief features: the University of the State of New York, the Board of Regents, and the State Commissioner of Education.

University of the State of New York.—The University of the State of New York is not a university in the ordinary sense of that word. It has no buildings of its own, no apparatus, no teachers. It is a corporation, consisting of a federation of a large number of the higher educational institutions in the State. Over these the "University" exercises a supervisory control. In exercising this control the University is represented by a Board of Regents.

Board of Regents.—As now organized the Board of Regents consists of eleven members, chosen for terms of eleven years by the Legislature. One member goes out each year, and either he himself or a new man is elected by the Legislature to fill the vacant place. As far as possible, members are chosen to give representation on the Board to each judicial district in the State. The executive and financial officer of the Board is the State Commissioner of Education.

State Commissioner of Education.—The State Commissioner of Education is chosen by the Board of Regents and holds office at their pleasure. As in his office are combined the powers and duties of the Superintendent of Public Instruction and of the Secretary of the Board of Regents, he practically has control of all educational matters in the State. For purposes of management and supervision he has the power to create such departments as he thinks necessary, and to appoint deputies and heads of such departments, subject to the approval of the Board of Regents.

Assistant Commissioners and Other Officers.—Under

these provisions three assistant commissioners have been appointed: (1) One to take charge of the department of colleges, professional and technical schools; (2) another to take charge of the department of high schools; (3) and a third to take charge of the department of elementary or common schools. There is a director of the State Museum and of the science work, another in charge of libraries and home education, and several other officers in charge of special divisions of educational work.

Powers and Duties of the Board of Regents.—The Board has power to grant charters of incorporation to colleges, universities, academies, professional and technical schools, libraries (other than public school libraries), and museums; to exercise supervision over such educational institutions as form a part of the University of the State of New York; to inspect them, and to distribute to them funds granted by the State for their use; to establish examinations as to attainments in learning, and confer on successful candidates suitable certificates, diplomas, and degrees.

Powers and Duties of the State Commissioner.—Besides acting as the executive and financial officer of the Board of Regents in carrying out its special powers and duties, the State Commissioner of Education exercises special powers in connection with the common and secondary schools. He directs the course of study, prepares examinations for teachers, settles disputes about the interpretation of laws affecting the schools, and sees to the enforcement of the compulsory education law. He must make an annual report of the State Department of Education to the Legislature.

Common School Districts.—For the purposes of school administration the State is divided into districts, known as school districts. In each of these there is maintained a free common school.

School Meetings.—In each district there is held every year a meeting of the voters in the district. Only those adults, men or women, who own or rent lands in the district subject to taxation, or pay taxes on personal property of the value of fifty dollars or above, or control children who have attended the district school for eight weeks previous to the meeting, have the right to vote. At these meetings the voters generally elect three trustees, a clerk, a collector, and a treasurer. The voters also have the power to fix the site of the schoolhouse, and to vote a tax on the property of the district for the building and maintenance of the school. In addition to this money, there is money given to each district by the State.

School Trustees.—The School Trustees must be qualified voters of the school district, and must be able to read and write. When there are three in a district they hold office for three years, one retiring and a new one being elected each year. They are the executive officers of the district. They call special meetings of the voters; attend to the purchase of lands for schools; make out tax lists for those in the district who have to pay taxes for school purposes; employ teachers; make rules for the government and discipline of the school; prescribe the course of study; make requisitions on the town supervisor for money due from the State, and on the collector for money due from the district. They are subject to the rules and

regulations laid down by the State Commissioner of Education.

School Commissioner and His District.—Over a certain number or group of school districts in the county is placed a School Commissioner. The territory over which he has control is known as the School Commissioner's District. This may comprise the whole county or only a portion of it. The Board of Supervisors of the county have charge of marking out the districts. The School Commissioner is chosen for a term of three years by the voters of his district, women being eligible to the office. The State pays him a salary of \$1,000, but this may be increased by the Board of Supervisors of the county. The powers and duties of the Commissioner over his district are much the same as those of the School Trustees over their districts. He has the power to change the boundaries of the school districts within his district, to examine and license teachers, to condemn school buildings as unfit, and it is his duty to visit the schools in his district, to see that they are properly managed, and to do all in his power to promote their best interests. He is subject to the control of the State Commissioner of Education.

Union School Districts.—Besides the school district, and the School Commissioner's district, there is another district made possible by statute. This is known as the Union School District. One or two or more adjoining school districts may form a union district and establish a union school. In such a case the ordinary officers of the school district cease to exist, and their place is taken

by a board of education, consisting of from three to nine members, elected by the voters of the union district. This board exercises the ordinary powers of the School Trustees, but it has power in addition to establish a high school department, and if the union district has five thousand or more inhabitants it may elect a superintendent.

City Schools.—The schools in cities do not come so directly under the control of the State Department of Education as do the schools in other districts of the State. In cities special provision is made for schools in the city charters. They are placed under a board of education appointed by the Mayor, or elected by the qualified voters. This board is responsible to the State Commissioner, and must make such reports to him as the laws require. It elects the Superintendent of Schools, who has general supervision over the teachers and the schools. Sometimes this officer is elected directly by the people.

Normal Schools.—The State very early found it necessary to provide schools wherein teachers might be trained. These are known as Normal Schools. There are twelve of them in different localities in the State. They are under the control of a local board of managers appointed by the State Commissioner, whose approval is necessary of any rule or course of study which the managers may make. Training for teachers is also given in academies in so-called “teachers’ classes,” and by “teachers’ institutes” under the direction of School Commissioners. In New York City there are training schools for teachers under the Board of Education, and a Normal College under a Board of Trustees.

Special Schools.—Schools for Indians, and schools for deaf, dumb, and blind are under the State Commissioner, who makes provision for their inspection and supervision.

Teachers' Licenses.—Every person who desires to teach in the schools of the State must have a license or certificate. These are of various grades, and are issued as the result of examinations given by the State Department of Education, or by reason of graduation from some college or teachers' training school. In many cities, New York, for example, the Board of Education has its own system of examinations and licenses and a special license must be obtained in order to teach in the city.

Compulsory Attendance Law.—The State has not only provided for the education of its citizens, and for the thorough training of teachers, but it has gone further, and declared that all children between certain ages must go to school. Every child between eight and fourteen years of age, who is physically and mentally fit, must attend school regularly or receive private instruction of equivalent value. Children between the ages of fourteen and sixteen must go to school, but are permitted to go to work provided they have had one hundred and thirty days schooling since they were thirteen years of age. Permits are granted by the health officers. Anyone employing a child without such a permit is subject to prosecution and fine. To see that the attendance law is carried out, certain officers, called attendance or truant officers, are appointed in each locality. They may arrest truants without warrant. Parents failing to see that their children attend school according to law are subject to fine. Localities

which fail to see that the law is enforced may have their portion of school moneys from the State withheld by the State Commissioner, and the local officer who wilfully neglects its enforcement is liable to removal.

State Aid for Education.—Besides the money raised for education in the local district, the State distributes certain sums of money from general taxes and also from certain funds invested many years ago, the income from which is devoted to education. The apportionment of these moneys is in the control of the State Commissioner, who plans to make the distribution as fair as possible by basing it on certain statistics which he receives from the various schools.

Private Educational Institutions.—Outside of the State system of education there are numerous private and parochial schools and denominational colleges. These do not receive State aid. The Constitution prohibits the giving of any State money to any educational institution wholly or partly under the control of any religious denomination, or in which any denominational tenet or doctrine is taught.

Excellence of the New York System.—The centralization of the power over the schools in the hands of one man has many advantages. It keeps the education uniform throughout the State, and prevents certain localities from neglecting the education of children by getting inferior teachers. The liberal distribution of money by the State has served as an incentive to all the schools to make their work of a high order.

Faults of the System.—There is a possibility of overdoing the uniformity. The educational officers are likely to wish to see every teacher teaching in the same way and teaching the same things at the same time. There is danger of having the whole educational system of the State become nothing more than a huge machine. If we are not careful, our system may come to be like the one which France is said to have had. The story is told that the Minister of Public Instruction in that country had the system worked out so nicely that he could tell what was being taught in every class of every grade at any hour and any minute, throughout the length and breadth of France. Teaching cannot be carried on like manufacturing. A great deal must be left to the teacher. A system which will provide good teachers for us is the one we want. We do not want one which is so uniform in character that the teachers think more of the machinery than they do of the teaching.

Examinations.—There is a tendency in the State and in the cities to put too much stress on having the pupils pass uniform examinations. This system is one which is carried to excess in England and in Canada. It has some advantages. It keeps a poor teacher up to a certain standard of work. It has many disadvantages. It makes the school a mere machine for preparing pupils for examinations. Every energy is bent to passing them. Good teaching is not done. It becomes mere cramming. The good teacher is brought down to the level of the poorest, and the poorest is raised but slightly.

One-man Power.—Foreign observers have noted it as a fact that in our democratic country the educational

system is run on a more autocratic basis than would be possible in the monarchical countries of Europe. Americans have found that in order to get things done properly it is necessary to choose some one man to do them, and then tell him to go ahead. This certainly accomplishes the desired end, but if it is carried too far it is dangerous. A man endowed with too much power is inclined to crush his subordinates. Unless the latter are given the privilege of making known their complaints and their grievances without being in fear of dismissal or of losing promotion, the system is at fault. The complaints of subordinates in this branch of the public service, as in all other branches, frequently uncover a great deal of corruption and incompetence among higher officials. Any system which tends to check such complaints tends to perpetuate a bad administration when it once gets control of public affairs.

Politics in the Schools.—An evil which has prevailed in the past more than it does at present has been that of making the appointment of teachers, principals, and superintendents depend upon political influence. In New York City, where the evil was once at its worst, it has been almost completely killed by the establishment of "eligible lists." These are lists of candidates, successful in passing the examinations set for teachers or principals, ranked according to the percentage which they attained. When a vacancy occurs it is filled by selecting a candidate from among those near the head of the list. This system has its faults, but it is probably the best devised as yet. Some other districts in the State are not so well served as New York City.

Shall School Officials be Elected or Appointed ?—Whether school officials in the State, such as commissioners, superintendents, and boards of education, should be appointed or elected is one of the most vital questions of the day. There is strong support for both sides of the question. Few deny, however, that the school system, in the necessity for being kept clear from politics, is more nearly like the judiciary than any other department of government. In the case of the judiciary, we saw that a judge attended to his duties better if he were not under the necessity of trying to get reëlected at short intervals. It is a question if the same does not hold true of school officials. In districts where the population is small the system of election may not be considered an evil, nevertheless the temptation to reward political supporters or their friends must always be great. In the large cities appointed boards of education seem to work better on the whole than where such boards are elected. The average voter in the cities does not seem to be able to distinguish between the sort of man whom he ought to choose for an educational officer and the one whom he chooses for his district leader. Even if he were able to do so, the very necessity of an educational officer running for office at all on a political party ticket draws the schools into politics more than could possibly be the case when such an officer is put into office by appointment.

The "District" Evil.—In providing for the selection of a State Commissioner of Education the Legislature very wisely enacted that a man not a resident of the State might be chosen to the office. That same principle should hold true of all educational offices from the lowest grade

teacher to the highest official. Unfortunately it does not. The policy of getting "home talent" in preference to "outsiders" is responsible for a good deal of poor work in our educational department. It is an evil which is not confined to New York State, however, but it is one which we should do well to take the lead in stamping out as much as possible. The mental ability of no two people is the same, and in matters of education, at least, we should always try to get the best person procurable, whether from some other district than our own within the State, or from some other State.

SUGGESTIVE QUESTIONS.

1. Make a study of the way in which the school system of your home is maintained and governed: (a) Is there a school meeting? (b) Who are the school officers? How do they get their positions, and for what terms? (c) How are the teachers selected? (d) Who votes the school taxes? How much was raised last year? (e) How much State aid was received? (f) How is the supervision of the schools provided for?
2. What recommendations were made by the school commissioner or superintendent in charge of your district in his last report?
3. Is the law regarding compulsory education enforced in your locality? Get a copy of the work certificate from the health officer and follow the steps that must be taken before an employer is allowed to give employment to a boy under sixteen.
4. Make a list of the sources from which the State receives money for the State Department of Education. (See the Legislative Manual.)
5. Subject for debate: Should school officials, such as commissioners, superintendents and boards of education, be elected or appointed?

CHAPTER XIV.

AMENDMENTS TO THE CONSTITUTION.

Power of the People.—It is proper that the closing chapter should be devoted to the consideration of how the State Government may be changed. The State must have a republican form of government and is prohibited from doing certain things specified in the Federal Constitution. Outside of these restrictions, the people of New York State can do what they please with their government. They can at their pleasure change its whole machinery so completely that the future working of it would be almost entirely different from that which it is to-day. These changes they may make through their representatives in the Senate and Assembly by means of amendments to the Constitution, or through a Constitutional Convention the delegates to which are elected by the voters for the especial purpose of changing the Constitution.

Amendments.—Amendments may be proposed in the Senate and Assembly. If they are agreed to by a majority of the members elected to each house they are to be referred to the Legislature to be chosen at the next general election of Senators. Three months before such an election takes place, however, the proposed amendment or amendments must be published, so that the voters may

know what they are. If the Legislature then chosen approves of the amendments by a majority of those elected to each house, it must then submit them to the people for approval. If a majority of the voters approve of them, they become a part of the Constitution on the first day of January following such approval.

Constitutional Convention.—The Constitution provides that at the general election to be held in the year 1916 and in every twentieth year thereafter, or at any other time that the Legislature may provide by law, the question shall be put to the voters: "Shall there be a convention to revise the Constitution and amend the same?" If a majority of the voters decide in favor of it, three delegates are chosen from each Senate District at the election in the year following and also fifteen delegates-at-large. These form the Convention. Any constitution or constitutional amendment approved by a majority of the members elected to the Convention must be submitted to the people not less than six weeks after the Convention has finished its work and adjourned. If the majority of the voters approve of the changes, then the new or amended Constitution goes into effect on the first day of January following its approval by the voters.

Character of the Constitutional Convention.—The delegates chosen to the last Constitutional Convention in this State, held in 1894, were among the most capable men in the State. However careless the voters may sometimes show themselves in electing members of the Legislature, when it comes to the Constitutional Convention they choose the best. The Constitution is a document

that they do not care to have tampered with by any inferior men.

Interest in Conventions.—The general public and the newspapers manifest the greatest interest in the Convention, far more than is shown in the proceedings of the Legislature. Perhaps, if the same interest were shown in the latter as in the former body, our legislative enactment would be of a higher order, and the men chosen to the Legislature would compare more favorably than they do now with the men chosen to the Convention. The Convention, however, only comes at great intervals. It is possible to awaken greater interest in it for that reason. The voters do not seem to be able to keep up their interest in a body which, like the Legislature, meets every year.

History of Amendments.—Since 1894 there have been no amendments to the Constitution. Preceding that date, of the many amendments submitted for approval the people accepted a very large number and rejected only a few. In 1869 they rejected an amendment relating to assessments, in 1873 they rejected by overwhelming majorities amendments making the judges of the higher and of many of the lower courts appointive, and in 1892 they rejected amendments relating to the powers of the two houses of the Legislature, the election of additional judges to the Supreme Court, and a third relating to certain Salt Springs. Many amendments, however, have been proposed in the Legislature which have never been submitted to the people because they have not received the requisite number of votes in the two houses. The large

number of amendments accepted and the few rejected by the people go to show that the Legislature is very careful of the sort of amendments it submits to the voters rather than that the people are careless in their consideration of them.

History of Conventions.—The people, as we have seen earlier, have never shown themselves opposed to increasing the length of the Constitution. They have always accepted the proposals for conventions and have with one exception approved of the constitutions or amendments proposed by them. In 1869, however, they rejected the Constitution as amended by the Convention called in 1866, and accepted only two of the amendments proposed.

SUGGESTIVE QUESTIONS.

1. Why should a proposed amendment be printed for three months preceding the general election following its first adoption by the Legislature?
2. What reasons can you give for the requirement that an amendment shall be adopted by two Legislatures?
3. Why is it made more difficult to make an amendment to the Constitution than it is to pass a law?
4. Compare the method of amending the Federal Constitution with that of amending the State Constitution.
5. Give reasons for and against long constitutions.

STATE AND LOCAL OFFICERS.

(In the order in which they appear in the text.)

NAMES.	Term of Office.	Salaries.	How Chosen.
<i>Legislature.</i>			
Senator.....	2 years.	\$1,500	By the people.
Assemblyman.....	1 year.	1,500	By the people.
<i>Executive.</i>			
Governor.....	2 years.	10,000	By the people.
Lieutenant Governor.....	2 years.	5,000	By the people.
Secretary of State.....	2 years.	5,000	By the people.
Comptroller.....	2 years.	6,000	By the people.
Treasurer.....	2 years.	5,000	By the people.
Attorney-General.....	2 years.	5,000	By the people.
State Engineer.....	2 years.	5,000	By the people.
Sup't of Public Works.....	Same as appointing Governor.	6,000	By Gov. and Sen.
Superintendent of Insurance.....	3 years.	7,000	By Gov. and Sen.
Superintendent of Banks.....	3 years.	7,000	By Gov. and Sen.
Superintendent of Prisons.....	5 years.	6,000	By Gov. and Sen.
Commissioner of Health.....	4 years.	3,500	By Gov. and Sen.
Commissioner of Agriculture.....	3 years.	4,000	By Gov. and Sen.
Commissioner of Labor.....	4 years.	3,500	By Gov. and Sen.
Sup't of Weights and Measures.....	Pleasure of appointing power.	500	By Gov., Lt. Gov., and Secretary of State.
Sup't of Public Buildings.....	2 years.	5,000	By Gov., Lt. Gov., and Speaker of Assem.
Regents.....	11 years.	None.	By Legislature.
Board of Charities.....	8 years.	Per day.	By Gov. and Sen.
Lunacy Commissioners.....	6 years.	3,500-7,500	By Gov. and Sen.
Prison Commissioners.....	8 years.	Up to 4,000	By Gov. and Sen.
Railroad Commissioners.....	5 years.	8,000	By Gov. and Sen.
Port Wardens.....	3 years.	Fees.	By Gov. and Sen.
Tax Commissioners.....	3 years.	5,000	By Gov. and Sen.
Quarantine Commissioners.....	3 years.	2,500	By Gov. and Sen.
Civil Service Commissioners.....	Indefinite.	3,000	By Gov. and Sen.
<i>Judiciary.</i>			
Judges of Court of Appeals.....	14 years.	13,700	By the people.
Supreme Court Justices.....	14 years.	7,200	By the people.
County Judge.....	6 years.	Fixed by Legis.	By the people.
Surrogate.....	6 years.	Varies.	By the people.
Justice of the Peace.....	4 years.	Fees.	By the people.
Judges of Gen. Sess., N. Y. C.....	14 years.	12,000	By the people.
Justices of City Court, N. Y. C.....	10 years.	10,000	By the people.
Municipal C't Justices, N. Y. C.....	10 years.	6,000	By the people.
Court of Special Sess., N. Y. C.....	10 years.	6,000-9,000	Appointed by Mayor.
City Magistrates, N. Y. C.....	10 years.	5,000-7,000	Appointed by Mayor.
Coroner.....	3 years.	Fees.	Some elected.
Judges of Court of Claims.....	6 years.	5,000	Elected by people.
<i>County.</i>			
Supervisor (see below).....	2 years.	Per day.	Elected by people.
Sheriff.....	3 years.	Fees.	Elected by people.

STATE AND LOCAL OFFICERS (*Continued*).

NAMES.	Term of Office.	Salaries.	How Chosen.
<i>County (continued).</i>			
County Clerk	3 years.	Fees.	Elected by people.
County Treasurer	3 years.	Varies.	Elected by people.
District Attorney	3 years.	Varies.	Elected by people.
Superintendents of Poor	3 years.	Varies.	Elected by people.
School Commissioner	3 years.	1,000+	Elected by people.
<i>Town.</i>			
Supervisor	2 years.	Per day.	By the people.
Town Clerk	2 years.	Fees.	By the people.
Collector	2 years.	Percentage.	By the people.
Assessors	2 years.	Per day.	By the people.
Commissioner of Highways	2 years.	Per day.	By the people.
Overseers of Poor	2 years.	Per day.	By the people.
Constables	2 years.	Fees.	By the people.
Inspectors of Elections	2 years.	Per day.	By the people.
<i>Village.</i>			
Board of Trustees	2 years.	None.	By the people.
Village President	1 year.	None.	By the people.
Treasurer	1 year.	Varies.	By the people.
Clerk	1 year.	Varies.	By the people.
Assessors	1 year.	Per day.	By the people.
Collector	1 year.	Percentage.	By the people.
Board of Health	1 year.	None.	By the Trustees.
Street Commissioner	1 year.	Varies.	By the people.
Fire Commissioner	1 year.	None.	By the people.
Water Commissioner	1 year.	None.	By the people.
Light Commissioner	1 year.	None.	By the people.
Police Justice	4 years.	Fees.	By the people.
<i>New York City.</i>			
Aldermen	2 years.	\$1,000	By the people.
President of Board of Aldermen	4 years.	5,000	By the people.
City Clerk	6 years.	7,000	By Board of Aldermen.
Borough Presidents	4 years.	5,000-7,500	By the people.
Mayor	4 years.	15,000	By the people.
Commissioners of Accounts	{ Pleasure of Mayor.	5,000	By the Mayor.
Civil Service Commissioners	"	3,000	By the Mayor.
Corporation Counsel	"	15,000	By the Mayor.
Commissioner of Police	5 years.	7,500	By the Mayor.
Commissioner of Water Supply	{ Pleasure of Mayor.	7,500	By the Mayor.
Commissioner of Street Cleaning	"	7,500	By the Mayor.
Commissioner of Bridges	"	7,500	By the Mayor.
Commissioners of Parks	"	5,000	By the Mayor.
Commissioner of Charities	"	7,500	By the Mayor.
Commissioner of Correction	"	7,500	By the Mayor.
Fire Commissioner	"	7,500	By the Mayor.
Commissioner of Docks	"	6,000	By the Mayor.
Commissioners of Taxes	"	7,000-8,000	By the Mayor.
Board of Education	5 years.	None.	By the Mayor.
City Superintendent of Schools	6 years.	8,000	By Board of Education.
Associate Superintendents	6 years.	5,500	By Board of Education.
Superintendent of School B'ldgs.	6 years.	8,000	By Board of Education.
Superintendent of Sch'l Supplies	6 years.	4,000	By Board of Education.
Supervisor of Lectures	6 years.	5,000	By Board of Education.
Commissioner of Health	{ Pleasure of Mayor.	7,500	By the Mayor.
Tenement House Commissioner	"	7,500	By the Mayor.
Comptroller	4 years.	15,000	By the people.

STATE AND LOCAL OFFICERS (*Concluded*).

NAMES.	Term of Office.	Salaries.	How Chosen.
<i>New York City (continued).</i>			
Chamberlain	{ Pleasure of Mayor.	12,000	By the Mayor.
Judges (see Judiciary)
Superintendents of Buildings....	{ Pleasure of Boro. President.	2,500-5,000	By Borough President.
Commissioners of Public Works.		Varies.	By Borough President.
<i>Buffalo.</i>			
Councilmen	4 years.	1,000	By the people.
Aldermen	2 years.	1,000	By the people.
City Clerk	1 year.	2,500	By Common Council.
Mayor	4 years.	\$5,000	By the people.
Comptroller	4 years.	4,000	By the people.
Treasurer	4 years.	5,000	By the people.
Assessors	6 years.	3,500	By the people.
Corporation Counsel	4 years.	5,000	By the people.
Commissioner of Public Works..	4 years.	5,000	By the people.
City Superintendent of Schools..	4 years.	5,000	By the people.
Overseer of the Poor	4 years.	3,500	By the people.
Police Commissioners	6 years.	2,500	By the Mayor.
Commissioner of Health	5 years.	4,000	By the Mayor.
Fire Commissioners	6 years.	Per day.	By the Mayor.
Park Commissioners	6 years.	None.	By the Mayor.
Examiners of Schools	5 years.	500	By the Mayor.
Municipal Court Judges... ..	6 years.	4,000	By the people.
Police Justice	4 years.	5,000	By the people.
Justices of the Peace	4 years.	1,200-1,800	By the people.
<i>Education.</i>			
State Commissioner.	{ Pleasure of the Regents. Pleasure of State Comm'r.	7,500	By the Regents.
Assistant Commissioners		5,000	{ By State Commissioner and Regents.
School Trustees	1-3 years.	None.	By the people.
Clerk	1 year.	Varies.	By the people.
Collector	1 year.	Varies.	By the people.
Treasurer	1 year.	Varies.	By the people.
School Commissioner	3 years.	1,000+	By the people.
School Board	Varies.	None.	By the people.
Superintendent	Varies.	Varies.	By the Board.
<i>Convention.</i>			
Delegates	Indefinite.	{ 1,500 + mileage.	By the people.

THE CONSTITUTION.

WE, THE PEOPLE of the State of New York, grateful to Almighty God for our Freedom, in order to secure its blessings, DO ESTABLISH THIS CONSTITUTION.

ARTICLE I.

NO PERSON TO BE DISFRANCHISED.

SECTION 1. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

TRIAL BY JURY.

SEC. 2. The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.

RELIGIOUS LIBERTY.

SEC. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

WRIT OF HABEAS CORPUS.

SEC. 4. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

BAIL, FINES.

SEC. 5. Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

GRAND JURY—BILL OF RIGHTS.

SEC. 6. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service; and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace, and in cases of petit larceny, under the regulation of the Legislature), unless on presentment or indictment of a grand jury, and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use, without just compensation.

PRIVATE PROPERTY—PRIVATE ROADS.

SEC. 7. When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damage to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited. General laws may be passed permitting the owners or occupants of agricultural lands to construct and maintain for the drainage thereof, necessary drains, ditches and dikes upon the lands of others, under proper restrictions and with just compensation, but no special laws shall be enacted for such purposes.

FREEDOM OF SPEECH AND OF THE PRESS.

SEC. 8. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable

ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

RIGHT OF PETITION—DIVORCES—LOTTERIES.

SEC. 9. No law shall be passed abridging the right of the people peaceably to assemble and to petition the government, or any department thereof; nor shall any divorce be granted otherwise than by due judicial proceedings; nor shall any lottery or the sale of lottery tickets, pool-selling, book-making, or any other kind of gambling hereafter be authorized or allowed within this State; and the Legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section.

RIGHT OF PROPERTY IN LANDS—ESCHEATS.

SEC. 10. The people of this State, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail, from a defect of heirs, shall revert, or escheat to the people.

FEUDAL TENURES ABOLISHED.

SEC. 11. All feudal tenures of every description, with all their incidents, are declared to be abolished, saving, however, all rents and services certain which at any time heretofore have been lawfully created or reserved.

ALLODIAL TENURE.

SEC. 12. All lands within this State are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates.

CERTAIN LEASES INVALID.

SEC. 13. No lease or grant of agricultural land, for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

FINES AND QUARTER SALES ABOLISHED.

SEC. 14. All fines, quarter sales, or other like restraints upon alienation reserved in any grant of land, hereafter to be made, shall be void.

SALE OF LANDS.

SEC. 15. No purchase or contract for the sale of lands in this State made since the fourteenth day of October, one thousand

seven hundred and seventy-five; or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority, and with the consent of the Legislature.

OLD COLONY LAWS AND ACTS OF THE LEGISLATURE—COMMON LAW—
COMMISSIONERS TO BE APPOINTED—THEIR DUTIES.

SEC. 16. Such parts of the common law, and of the acts of the Legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the Congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered; and such acts of the Legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the Legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this Constitution, are hereby abrogated.

GRANTS OF LAND SINCE 1775—PRIOR GRANTS.

SEC. 17. All grants of land within the State, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this Constitution shall affect any grants of land within this State, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the State, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

SEC. 18. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

ARTICLE II.

QUALIFICATION OF VOTERS.

SECTION I. Every male citizen of the age of twenty-one years, who shall have been a citizen for ninety days, and an inhabitant

of this State one year next preceding an election, and the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

PERSONS EXCLUDED FROM THE RIGHT OF SUFFRAGE, ETC.

SEC. 2. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The Legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

CERTAIN EMPLOYMENTS NOT TO AFFECT RESIDENCE OF VOTERS

SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor

while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense, or by charity; nor while confined in any public prison.

LAWS TO BE PASSED.

SEC. 4. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having five thousand inhabitants or more, according to the last preceding State enumeration of inhabitants, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters.

ELECTION TO BE BY BALLOT.

SEC. 5. All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved.

SEC. 6. All laws creating, regulating or affecting boards of officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the Legislature may direct. Existing laws on this subject shall continue until the Legislature shall otherwise provide. This section shall not apply to town meetings, or to village elections.

ARTICLE III.

LEGISLATIVE POWERS.

SECTION I. The legislative power of this State shall be vested in the Senate and Assembly.

SENATE AND ASSEMBLY, NUMBER OF MEMBERS.

SEC. 2. The Senate shall consist of fifty members, except as hereinafter provided. The senators elected in the year one thousand eight hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years. The Assembly shall consist of one hundred and fifty members who shall be chosen for one year.

SENATE DISTRICTS.

SEC. 3. The State shall be divided into fifty districts to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to fifty, inclusive. [Enumeration and boundaries follow here.]

ENUMERATION TO BE TAKEN EVERY TEN YEARS—SENATE DISTRICTS,
HOW ALTERED

SEC. 4. An enumeration of the inhabitants of the State shall be taken under the direction of the Secretary of State, during the months of May and June, in the year one thousand nine hundred and five, and in the same months every tenth year thereafter; and the said districts shall be so altered by the Legislature at the first regular session after the return of every enumeration, that each senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory, and no county shall be divided in the formation of a senate district except to make two or more senate districts wholly in such county. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of senate districts; nor shall any district contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein, adjoining such district. Counties, towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.

No county shall have four or more senators unless it shall have a full ratio for each senator. No county shall have more than one-third of all the senators; and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the senators.

The ratio for apportioning senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty, and the Senate shall always be composed of fifty members, except that if any county having three or more senators at the time of any apportionment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county in addition to the fifty senators, and the whole number of senators shall be increased to that extent.

MEMBERS OF ASSEMBLY, NUMBER OF, ETC.

SEC. 5. The members of the Assembly shall be chosen by single districts, and shall be apportioned by the Legislature at the first regular session after the return of every enumeration among the several counties of the State, as nearly as may be according to the number of their respective inhabitants, excluding aliens. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of assembly, and no county shall hereafter be erected unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, entitle it to a member. But the Legislature may abolish the said county of Hamilton and annex the territory thereof to some other county or counties.

The quotient obtained by dividing the whole number of inhabitants of the State, excluding aliens, by the number of members of assembly, shall be the ratio for apportionment, which shall be made as follows: One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one-half over. Two members shall be apportioned to every other county. The remaining members of assembly shall be apportioned to the counties having more than two ratios according to the number of inhabitants, excluding aliens. Members apportioned on remainders shall be apportioned to the counties having the highest remainders in the order thereof respectively. No county shall have more members of assembly than a county having a greater number of inhabitants, excluding aliens. [Enumeration follows here.]

In any county entitled to more than one member, the board of supervisors, and in any city embracing an entire county and having no board of supervisors, the common council, or if there be none, the body exercising the powers of a common council, shall assemble on the second Tuesday of June, one thousand eight hundred and

ninety-five, and at such times as the Legislature making an apportionment shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of convenient and contiguous territory in as compact form as practicable, each of which shall be wholly within a senate district formed under the same apportionment equal to the number of members of assembly to which such county shall be entitled, and shall cause to be filed in the office of the Secretary of State and of the clerk of such county; a description of such districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, according to the last preceding enumeration; and such apportionment and districts shall remain unaltered until another enumeration shall be made, as herein provided; but said division of the city of Brooklyn and the county of Kings to be made on the second Tuesday of June, one thousand eight hundred and ninety-five, shall be made by the common council of said city and the board of supervisors of said county, assembled in joint session. In counties having more than one senate district, the same number of assembly districts shall be put in each senate district unless the assembly districts cannot be evenly divided among the senate districts of any county, in which case one more assembly district shall be put in the senate district in such county having the largest, or one less assembly district shall be put in the senate district in such county having the smallest number of inhabitants, excluding aliens, as the case may require. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts, nor shall any district contain a greater excess in population over an adjoining district in the same senate district, than the population of a town or block therein adjoining such assembly district. Towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens; but in the division of cities under the first apportionment, regard shall be had to the number of inhabitants, excluding aliens, of the election districts according to the State enumeration of one thousand eight hundred and ninety-two, so far as may be, instead of blocks. Nothing in this section shall prevent the division, at any time, of counties and towns, and the erection of new towns by the Legislature.

An apportionment by the Legislature, or other body, shall be subject to review by the Supreme Court, at the suit of any citizen, under such reasonable regulations as the Legislature may prescribe;

and any court before which a cause may be pending involving an apportionment, shall give precedence thereto over all other causes and proceedings, and if said court be not in session it shall convene promptly for the disposition of the same.

PAY OF MEMBERS.

SEC. 6. Each member of the Legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting, once in each session, on the most usual route. Senators, when the Senate alone is convened in extraordinary session, or when serving as members of the Court for the Trial of Impeachments, and such members of the assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.

NO MEMBER TO RECEIVE AN APPOINTMENT.

SEC. 7. No member of the Legislature shall receive any civil appointment within this State, or the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, or from any city government, during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointments shall be void.

PERSONS DISQUALIFIED FOR BEING MEMBERS.

SEC. 8. No person shall be eligible to the Legislature, who at the time of his election, is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or an officer under any city government. And if any person shall, after his election as a member of the Legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

TIME OF ELECTION FIXED.

SEC. 9. The elections of senators and members of assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the Legislature.

POWERS OF EACH HOUSE.

SEC. 10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members; shall choose its own officers; and the Senate shall choose a temporary president to preside in case of the absence or impeachment of the Lieutenant-Governor, or when he shall refuse to act as president, or shall act as Governor.

JOURNALS TO BE KEPT.

SEC. 11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

NO MEMBERS TO BE QUESTIONED, ETC.

SEC. 12. For any speech or debate in either house of the Legislature, the members shall not be questioned in any other place.

BILLS MAY ORIGINATE IN EITHER HOUSE.

SEC. 13. Any bill may originate in either house of the Legislature, and all bills passed by one house may be amended by the other.

ENACTING CLAUSE OF BILLS.

SEC. 14. The enacting clause of all bills shall be "The People of the State of New York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

ASSENT OF A MAJORITY OF ALL THE MEMBERS REQUIRED, ETC.

SEC. 15. No bill shall be passed or become a law unless it shall have been printed and upon the desks of the members, in its final form, at least three calendar legislative days prior to its final passage, unless the Governor, or the acting Governor, shall have certified to the necessity of its immediate passage, under his hand and the seal of the State; nor shall any bill be passed or become a law, except by the assent of a majority of the members elected to each branch of the Legislature; and upon the last reading of a bill, no amendment thereof shall be allowed, and the question upon its final passage shall be taken immediately thereafter, and the yeas and nays entered on the journal.

RESTRICTION AS TO PRIVATE AND LOCAL BILLS.

SEC. 16. No private or local bills which may be passed by the Legislature shall embrace more than one subject, and that shall be expressed in the title.

EXISTING LAW NOT TO BE MADE A PART OF AN ACT EXCEPT BY
INSERTING IT THEREIN.

SEC. 17. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or part thereof, shall be applicable, except by inserting it in such act.

PRIVATE AND LOCAL BILLS NOT TO BE PASSED IN CERTAIN CASES.

SEC. 18. The Legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning or impaneling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the State.

The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except

upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the Appellate Division of the Supreme Court, in the department in which it is proposed to be constructed, may, upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

PRIVATE CLAIMS NOT TO BE AUDITED.

SEC. 19. The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law.

TWO-THIRD BILLS.

SEC. 20. The assent of two-thirds of the members elected to each branch of the Legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

USE OF PUBLIC MONEYS.

SEC. 21. No money shall ever be paid out of the treasury of this State or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

SEC. 22. No provision or enactment shall be embraced in the annual appropriation or supply bill, unless it relates specifically to some particular appropriation in the bill; and any such provision or enactment shall be limited in its operation to such appropriation.

CERTAIN SECTIONS NOT TO APPLY TO CERTAIN BILLS.

SEC. 23. Sections seventeen and eighteen of this article shall not apply to any bill, or the amendments to any bill, which shall be

reported to the Legislature by commissioners who have been appointed pursuant to law to revise the statutes.

BILL IMPOSING A TAX, MANNER OF PASSING.

SEC. 24. Every law which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

SEC. 25. On the final passage, in either house of the Legislature, of any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges or commutes any claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

BOARD OF SUPERVISORS.

SEC. 26. There shall be in the several counties, except in cities whose boundaries are the same as those of the county, a board of supervisors, to be composed of such members, and elected in such manner, and for such period, as is or may be provided by law. In any such city the duties and powers of a board of supervisors may be devolved upon the common council or board of aldermen thereof.

LOCAL LEGISLATIVE POWERS.

SEC. 27. The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the Legislature may from time to time deem expedient.

NO EXTRA COMPENSATION TO BE GRANTED.

SEC. 28. The Legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor.

OCCUPATION AND EMPLOYMENT OF CONVICTS.

SEC. 29. The Legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several state prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, peniten-

tiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

ARTICLE IV.

EXECUTIVE POWER, HOW VESTED.

SECTION 1. The executive power shall be vested in a Governor, who shall hold his office for two years; a Lieutenant-Governor shall be chosen at the same time, and for the same term. The Governor and Lieutenant-Governor elected next preceding the time when this section shall take effect, shall hold office until and including the thirty-first day of December, one thousand eight hundred and ninety-six, and their successors shall be chosen at the general election in that year.

QUALIFICATIONS OF GOVERNOR.

SEC. 2. No person shall be eligible to the office of Governor or Lieutenant-Governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceding his election a resident of this State.

ELECTION OF GOVERNOR AND LIEUTENANT-GOVERNOR.

SEC. 3. The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor, the two houses of the Legislature at its next annual session shall forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor or Lieutenant-Governor.

DUTIES AND POWERS OF THE GOVERNOR.—HIS COMPENSATION.

SEC. 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State. He shall have power to convene the

Legislature, or the Senate only, on extraordinary occasions. At extraordinary sessions no subject shall be acted upon except such as the Governor may recommend for consideration. He shall communicate by message to the Legislature at every session the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws are faithfully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.

PARDONING POWERS VESTED IN THE GOVERNOR.

SEC. 5. The Governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

POWERS OF GOVERNOR TO DEVOLVE ON LIEUTENANT-GOVERNOR.

SEC. 6. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State, in time of war, at the head of a military force thereof, he shall continue Commander-in-Chief of all the military force of the State.

QUALIFICATIONS OF LIEUTENANT-GOVERNOR.

SEC. 7. The Lieutenant-Governor shall possess the same qualifications of eligibility for office as the Governor. He shall be presi-

dent of the Senate, but shall have only a casting vote therein. If during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor until the vacancy be filled or the disability shall cease; and if the President of the Senate for any of the above causes shall become incapable of performing the duties pertaining to the office of Governor, the Speaker of the Assembly shall act as Governor until the vacancy be filled or the disability shall cease.

COMPENSATION OF LIEUTENANT-GOVERNOR.

SEC. 8. The Lieutenant-Governor shall receive for his services an annual salary of five thousand dollars, and shall not receive or be entitled to any other compensation, fee or perquisite, for any duty or service he may be required to perform by the Constitution or by law.

BILLS TO BE PRESENTED TO THE GOVERNOR FOR SIGNATURE.

SEC. 9. Every bill which shall have passed the Senate and Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the Governor. In all such cases, the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall become a law after the final adjournment of the Legislature, unless approved by the Governor within thirty days after such adjournment. If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more of such items while approving of the

other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately considered. If on reconsideration one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in relation to bills not approved by the Governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

ARTICLE V.

STATE OFFICERS.

SECTION 1. The Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be chosen at a general election at the times and places of electing the Governor and Lieutenant-Governor, and shall hold their offices for two years, except as provided in section two of this article. Each of the officers in this article named, excepting the Speaker of the Assembly, shall, at stated times during his continuance in office, receive for his services a compensation which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive to his use any fee or perquisites of office or other compensation. No person shall be elected to the office of State Engineer and Surveyor who is not a practical civil engineer.

SEC. 2. The first election of the Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor, pursuant to this article shall be held in the year one thousand eight hundred and ninety-five, and their terms of office shall begin on the first day of January following, and shall be for three years. At the general election in the year one thousand eight hundred and ninety-eight, and every two years thereafter, their successors shall be chosen for the term of two years.

SUPERINTENDENT OF PUBLIC WORKS.

SEC. 3. A Superintendent of Public Works shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office until the end of the term of the Governor by

whom he was nominated, and until his successor is appointed and qualified. He shall receive a compensation to be fixed by law. He shall be required by law to give security for the faithful execution of his office before entering upon the duties thereof. He shall be charged with the execution of all laws relating to the repair and navigation of the canals, and also of those relating to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction or improvement shall be confided to the State Engineer and Surveyor; subject to the control of the Legislature, he shall make the rules and regulations for the navigation or use of the canals. He may be suspended or removed from office by the Governor, whenever, in his judgment, the public interest shall so require; but in case of the removal of such Superintendent of Public Works from office, the Governor shall file with the Secretary of State a statement of the cause of such removal, and shall report such removal and the cause thereof to the Legislature at its next session. The Superintendent of Public Works shall appoint not more than three assistant superintendents, whose duties shall be prescribed by him, subject to modification by the Legislature, and who shall receive for their services a compensation to be fixed by law. They shall hold their office for three years, subject to suspension or removal by the Superintendent of Public Works, whenever, in his judgment, the public interest shall so require. Any vacancy in the office of any such assistant superintendents shall be filled for the remainder of the term for which he was appointed, by the Superintendent of Public Works; but in case of the suspension or removal of any such assistant superintendent by him, he shall at once report to the Governor, in writing, the cause of such removal. All other persons employed in the care and management of the canals, except collectors of tolls, and those in the department of the State Engineer and Surveyor, shall be appointed by the Superintendent of Public Works, and be subject to suspension or removal by him. The Superintendent of Public Works shall perform all the duties of the Canal Commissioners, and Board of Canal Commissioners, as now declared by law, until otherwise provided by the Legislature. The Governor, by and with the advice and consent of the Senate, shall have power to fill vacancies in the office of Superintendent of Public Works; if the Senate be not in session, he may grant commissions which shall expire at the end of the next succeeding session of the Senate.

SUPERINTENDENT OF PRISONS.

SEC. 4. A Superintendent of State Prisons shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office for five years, unless sooner removed; he shall give security in such amount, and with such sureties as shall be required by law for the faithful discharge of his duties; he shall have the superintendence, management and control of State prisons, subject to such laws as now exist or may hereafter be enacted; he shall appoint the agents, wardens, physicians and chaplains of the prisons. The agent and warden of each prison shall appoint all other officers of such prison, except the clerk, subject to the approval of the same by the Superintendent. The Comptroller shall appoint the clerks of the prisons. The Superintendent shall have all the powers and perform all the duties not inconsistent herewith, which were formerly had and performed by the Inspectors of State Prisons. The Governor may remove the Superintendent for cause at any time, giving to him a copy of the charges against him, and an opportunity to be heard in his defense.

COMMISSIONERS OF THE LAND OFFICE—OF THE CANAL FUND—
CANAL BOARD.

SEC. 5. The Lieutenant-Governor, Speaker of the Assembly, Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be the Commissioners of the Land Office. The Lieutenant-Governor, Secretary of State, Comptroller, Treasurer and Attorney-General shall be the Commissioners of the Canal Fund. The Canal Board shall consist of the Commissioners of the Canal Fund, the State Engineer and Surveyor, and the Superintendent of Public Works.

POWERS AND DUTIES OF BOARDS.

SEC. 6. The powers and duties of the respective boards, and of the several officers in this article mentioned, shall be such as now are or hereafter may be prescribed by law.

TREASURER MAY BE SUSPENDED BY THE GOVERNOR.

SEC. 7. The Treasurer may be suspended from office by the Governor, during the recess of the Legislature, and until thirty days after the commencement of the next session of the Legislature, whenever it shall appear to him that such Treasurer has, in any particular, violated his duty. The Governor shall appoint a com-

petent person to discharge the duties of the office during such suspension of the Treasurer.

OFFICES ABOLISHED.

SEC. 8. All offices for the weighing, gauging, measuring, culling or inspecting any merchandise, produce, manufacture or commodity whatever, are hereby abolished; and no such office shall hereafter be created by law; but nothing in this section contained shall abrogate any office created for the purpose of protecting the public health or the interests of the State in its property, revenue, tolls or purchases, or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

CIVIL SERVICE LAW.

SEC. 9. Appointments and promotions in the civil service of the State, and of all the civil divisions thereof, including cities and villages, shall be made according to merit and fitness, to be ascertained, so far as practicable, by examinations, which, so far as practicable, shall be competitive; provided, however, that honorably discharged soldiers and sailors from the army and navy of the United States in the late civil war, who are citizens and residents of this State, shall be entitled to preference in appointment and promotion, without regard to their standing on any list from which such appointment or promotion may be made. Laws shall be made to provide for the enforcement of this section.

ARTICLE VI.

SUPREME COURT, OF WHAT IT SHALL CONSIST, ETC.

SECTION 1. The Supreme Court is continued with general jurisdiction in law and equity, subject to such appellate jurisdiction of the Court of Appeals as now is or may be prescribed by law not inconsistent with this article. The existing judicial districts of the State are continued until changed as hereinafter provided. The Supreme Court shall consist of the justices now in office, and of the judges transferred thereto by the fifth section of this article, all of whom shall continue to be justices of the Supreme Court during their respective terms, and of twelve additional justices who shall reside in and be chosen by the electors of, the several existing judicial districts, three in the first district, three in the second, and one in each of the other districts; and of their successors. The successors of said justices shall be chosen by the electors of their respec-

tive judicial districts. The Legislature may alter the judicial districts once after every enumeration under the Constitution, of the inhabitants of the State, and thereupon reapportion the justices to be thereafter elected in the districts so altered.

DIVISION OF JUDICIAL DEPARTMENTS.

SEC. 2. The Legislature shall divide the State into four judicial departments. The first department shall consist of the county of New York; the others shall be bounded by county lines, and be compact and equal in population as nearly as may be. Once every ten years the Legislature may alter the judicial departments, but without increasing the number thereof.

There shall be an Appellate Division of the Supreme Court, consisting of seven justices in the first department, and of five justices in each of the other departments. In each department four shall constitute a quorum, and the concurrence of three shall be necessary to a decision. No more than five justices shall sit in any case.

From all the justices elected to the Supreme Court the Governor shall designate those who shall constitute the Appellate Division in each department; and he shall designate the presiding justice thereof, who shall act as such during his term of office, and shall be a resident of the department. The other justices shall be designated for terms of five years, or the unexpired portions of their respective terms of office, if less than five years. From time to time as the terms of such designations expire, or vacancies occur, he shall make new designations. He may also make temporary designations in case of the absence or inability to act, of any justice in the Appellate Division. A majority of the justices designated to sit in the Appellate Division in each department shall be residents of the department. Whenever the Appellate Division in any department shall be unable to dispose of its business within a reasonable time, a majority of the presiding justices of the several departments at a meeting called by the presiding justice of the department in arrears may transfer any pending appeals from such department to any other department for hearing and determination. No justice of the Appellate Division shall exercise any of the powers of a justice of the Supreme Court, other than those of a justice out of court, and those pertaining to the Appellate Division or to the hearing and decision of motions submitted by consent of counsel. From and after the last day of December, one thousand eight hundred and ninety-five, the Appellate Division shall have the jurisdiction now exercised by the Supreme Court at its General Terms, and by the General Terms of the Court

of Common Pleas for the City and County of New York, the Superior Court of the City of New York, the Superior Court of Buffalo and the City Court of Brooklyn, and such additional jurisdiction as may be conferred by the Legislature. It shall have power to appoint and remove a reporter.

The justices of the Appellate Division in each department shall have power to fix the times and places for holding Special and Trial Terms therein, and to assign the justices in the departments to hold such terms; or to make rules therefor.

JUDGES NOT TO SIT IN REVIEW IN CERTAIN CASES.

SEC. 3. No judge or justice shall sit in the Appellate Division or in the Court of Appeals in review of a decision made by him or by any court of which he was at the time a sitting member. The testimony in equity cases shall be taken in like manner as in cases at law; and, except as herein otherwise provided, the Legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and in equity that it has heretofore exercised.

TERMS OF OFFICE.

SEC. 4. The official terms of the justices of the Supreme Court shall be fourteen years from and including the first day of January next after their election. When a vacancy shall occur otherwise than by expiration of term in the office of justice of the Supreme Court the same shall be filled for a full term, at the next general election, happening not less than three months after such vacancy occurs; and, until the vacancy shall be so filled, the Governor by and with the advice and consent of the Senate, if the Senate shall be in session, or if not in session, the Governor may fill such vacancy by appointment, which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

ABOLITION OF CITY COURTS.

SEC. 5. The Superior Court of the City of New York, the Court of Common Pleas for the City and County of New York, the Superior Court of Buffalo, and the City Court of Brooklyn, are abolished from and after the first day of January, one thousand eight hundred and ninety-six, and thereupon the seals, records, papers and documents of or belonging to such courts, shall be deposited in the offices of the clerks of the several counties in which said courts now exist; and all actions and proceedings then pending in such courts

shall be transferred to the Supreme Court for hearing and determination. The judges of said courts in office on the first day of January, one thousand eight hundred and ninety-six, shall, for the remainder of the terms for which they were elected or appointed, be justices of the Supreme Court; but they shall sit only in the counties in which they were elected or appointed. Their salaries shall be paid by the said counties respectively, and shall be the same as the salaries of the other justices of the Supreme Court residing in the same counties. Their successors shall be elected as justices of the Supreme Court by the electors of the judicial districts in which they respectively reside.

The jurisdiction now exercised by the several courts hereby abolished, shall be vested in the Supreme Court. Appeals from inferior and local courts now heard in the Court of Common Pleas for the City and County of New York and the Superior Court of Buffalo, shall be heard in the Supreme Court in such manner and by such justice or justices as the Appellate Divisions in the respective departments, which include New York and Buffalo, shall direct, unless otherwise provided by the Legislature.

ABOLITION OF CIRCUIT COURTS AND COURTS OF OYER AND TERMINER.

SEC. 6. Circuit Courts and Courts of Oyer and Terminer are abolished from and after the last day of December, one thousand eight hundred and ninety-five. All their jurisdiction shall thereupon be vested in the Supreme Court, and all actions and proceedings then pending in such courts shall be transferred to the Supreme Court for hearing and determination. Any justice of the Supreme Court, except as otherwise provided in this article, may hold court in any county.

COURT OF APPEALS.

SEC. 7. The Court of Appeals is continued. It shall consist of the chief judge and associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, who shall be chosen by the electors of the State. The official terms of the chief judge and associate judges shall be fourteen years from and including the first day of January next after their election. Five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have power to appoint and to remove its reporter, clerk and attendants.

VACANCIES; HOW FILLED.

SEC. 8. When a vacancy shall occur otherwise than by expiration of term, in the office of chief or associate judge of the Court of Appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the Governor, by and with the advice and consent of the Senate, if the Senate shall be in session, or if not in session the Governor may fill such vacancy by appointment. If any such appointment of chief judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but in such case, the person appointed chief judge shall not be deemed to vacate his office of associate judge any longer than until the expiration of his appointment as chief judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

JURISDICTION OF COURT OF APPEALS.

SEC. 9. After the last day of December, one thousand eight hundred and ninety-five, the jurisdiction of the Court of Appeals, except where the judgment is of death, shall be limited to the review of questions of law. No unanimous decision of the Appellate Division of the Supreme Court that there is evidence supporting or tending to sustain a finding of fact or a verdict not directed by the court, shall be reviewed by the Court of Appeals. Except where the judgment is of death, appeals may be taken, as of right, to said court only from judgments or orders entered upon decisions of the Appellate Division of the Supreme Court, finally determining actions or special proceedings, and from orders granting new trials on exceptions, where the appellants stipulate that upon affirmance judgment absolute shall be rendered against them. The Appellate Division in any department may, however, allow an appeal upon any question of law which, in its opinion, ought to be reviewed by the Court of Appeals.

The Legislature may further restrict the jurisdiction of the Court of Appeals and the right of appeal thereto, but the right to appeal shall not depend upon the amount involved.

The provisions of this section shall not apply to orders made or judgments rendered by any General Term before the last day of

December, one thousand eight hundred and ninety-five, but appeals therefrom may be taken under existing provisions of law.

JUDGES OF COURT OF APPEALS, OR JUSTICES OF SUPREME COURT, TO
HOLD NO OTHER OFFICE.

SEC. 10. The judges of the Court of Appeals and the justices of the Supreme Court shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the Legislature or the people, shall be void.

REMOVALS—PROCEEDINGS IN RELATION THERETO.

SEC. 11. Judges of the Court of Appeals and justices of the Supreme Court, may be removed by concurrent resolution of both houses of the Legislature, if two-thirds of all the members elected to each house concur therein. All other judicial officers, except justices of the peace and judges or justices of inferior courts not of record, may be removed by the Senate, on the recommendation of the Governor, if two-thirds of all the members elected to the Senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statement of the cause alleged, and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal.

COMPENSATION OF JUDGES AND JUSTICES.

SEC. 12. The judges and justices hereinbefore mentioned shall receive for their services a compensation established by law, which shall not be increased or diminished during their official terms, except as provided in section five of this article. No person shall hold the office of judge or justice of any court longer than until and including the last day of December next after he shall be seventy years of age. No judge or justice elected after the first day of January, one thousand eight hundred and ninety-four, shall be entitled to receive any compensation after the last day of December next after he shall be seventy years of age; but the compensation of every judge of the Court of Appeals or justice of the Supreme Court elected prior to the first day of January, one thousand eight hundred and ninety-four, whose term of office has been, or whose present term of office shall be, so abridged, and who shall have served as such judge or justice ten years or more, shall be continued during the remainder of the term for which he was elected; but any such judge

or justice may, with his consent, be assigned by the Governor, from time to time, to any duty in the Supreme Court while his compensation is so continued.

IMPEACHMENTS.

SEC. 13. The Assembly shall have the power of impeachment, by a vote of a majority of all the members elected. The Court for the Trial of Impeachments shall be composed of the President of the Senate, the senators, or the major part of them, and the judges of the Court of Appeals, or the major part of them. On the trial of an impeachment against the Governor or Lieutenant-Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer shall exercise his office, after articles of impeachment against him shall have been preferred to the Senate, until he shall have been acquitted. Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust or profit under this State; but the party impeached shall be liable to indictment and punishment according to law.

COUNTY COURTS.

SEC. 14. The existing County Courts are continued, and the judges thereof now in office shall hold their offices until the expiration of their respective terms. In the county of Kings there shall be two county judges and the additional county judge shall be chosen at the next general election held after the adoption of this article. The successors of the several county judges shall be chosen by the electors of the counties for the term of six years. County Courts shall have the powers and jurisdiction they now possess, and also original jurisdiction in actions for the recovery of money only, where the defendants reside in the county, and in which the complaint demands judgment for a sum not exceeding two thousand dollars. The Legislature may hereafter enlarge or restrict the jurisdiction of the County Courts, provided, however, that their jurisdiction shall not be so extended as to authorize an action therein for the recovery of money only, in which the sum demanded exceeds two thousand dollars, or in which any person not a resident of the county is a defendant.

Courts of Sessions, except in the county of New York, are abolished from and after the last day of December, one thousand eight hundred and ninety-five. All the jurisdiction of the Court of Sessions in each county, except the county of New York, shall thereupon be vested in the County Court thereof, and all actions and proceedings then pending in such Courts of Sessions shall be transferred to said County Courts for hearing and determination. Every county judge shall perform such duties as may be required by law. His salary shall be established by law, payable out of the county treasury. A county judge of any county may hold County Courts in any other county when requested by the judges of such other county.

SURROGATES' COURTS.

SEC. 15. The existing Surrogates' Courts are continued, and the surrogates now in office shall hold their offices until the expiration of their terms. Their successors shall be chosen by the electors of their respective counties, and their terms of office shall be six years, except in the county of New York, where they shall continue to be fourteen years. Surrogates and Surrogates' Courts shall have the jurisdiction and powers which the surrogates and existing Surrogates' Courts now possess, until otherwise provided by the Legislature. The county judge shall be surrogate of his county, except where a separate surrogate has been or shall be elected. In counties having a population exceeding forty thousand, wherein there is no separate surrogate, the Legislature may provide for the election of a separate officer to be surrogate, whose term of office shall be six years. When the surrogate shall be elected as a separate officer his salary shall be established by law, payable out of the county treasury. No county judge or surrogate shall hold office longer than until and including the last day of December next after he shall be seventy years of age. Vacancies occurring in the office of county judge or surrogate shall be filled in the same manner as like vacancies occurring in the Supreme Court. The compensation of any county judge or surrogate shall not be increased or diminished during his term of office. For the relief of Surrogates' Courts the Legislature may confer upon the Supreme Court in any county having a population exceeding four hundred thousand the powers and jurisdiction of surrogates, with authority to try issues of fact by jury in probate cases.

LOCAL JUDICIAL OFFICERS.

SEC. 16. The Legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of county judge and of surrogate, in cases of their inability or of a vacancy, and in such other cases as may be provided by law, and to exercise such other powers in special cases as are or may be provided by law.

JUSTICES OF THE PEACE.

SEC. 17. The electors of the several towns shall, at their annual town meetings, or at such other time and in such manner as the Legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the peace and judges or justices of inferior courts not of record, and their clerks, may be removed for cause, after due notice and an opportunity of being heard, by such courts as are or may be prescribed by law. Justices of the peace and District Court justices may be elected in the different cities of this State in such manner, and with such powers, and for such terms, respectively, as are or shall be prescribed by law; all other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, shall be chosen by the electors of such cities, or appointed by some local authorities thereof.

INFERIOR LOCAL COURTS.

SEC. 18. Inferior local courts of civil and criminal jurisdiction may be established by the Legislature, but no inferior local court hereafter created shall be a court of record. The Legislature shall not hereafter confer upon any inferior or local court of its creation, any equity jurisdiction or any greater jurisdiction in other respects than is conferred upon County Courts by or under this article. Except as herein otherwise provided, all judicial officers shall be elected or appointed at such times and in such manner as the Legislature may direct.

CLERKS OF SUPREME COURT AND COURT OF APPEALS.

SEC. 19. Clerks of the several counties shall be clerks of the Supreme Court, with such powers and duties as shall be prescribed by law. The justices of the Appellate Division in each department shall have power to appoint and to remove a clerk who shall keep his

office at a place to be designated by said justices. The clerk of the Court of Appeals shall keep his office at the seat of government. The clerk of the Court of Appeals and the clerks of the Appellate Division shall receive compensation to be established by law and paid out of the public treasury.

NO JUDICIAL OFFICER, EXCEPT JUSTICE OF THE PEACE, TO RECEIVE FEES.

SEC. 20. No judicial officer, except justices of the peace, shall receive to his own use any fees or perquisites of office; nor shall any judge of the Court of Appeals, or justice of the Supreme Court, or any county judge or surrogate hereafter elected in a county having a population exceeding one hundred and twenty thousand, practise as an attorney or counselor in any court of record in this State, or act as referee. The Legislature may impose a similar prohibition upon county judges and surrogates in other counties. No one shall be eligible to the office of judge of the Court of Appeals, justice of the Supreme Court, or, except in the county of Hamilton, to the office of county judge or surrogate, who is not an attorney and counselor of this State.

PUBLICATION OF STATUTES TO BE PROVIDED FOR.

SEC. 21. The Legislature shall provide for the speedy publication of all statutes, and shall regulate the reporting of the decisions of the courts; but all laws and judicial decisions shall be free for publication by any person.

LOCAL JUDICIAL OFFICERS—TERMS OF INCUMBENTS.

SEC. 22. Justices of the peace and other local judicial officers provided for in sections seventeen and eighteen in office when this article takes effect, shall hold their offices until the expiration of their respective terms.

COURTS OF SPECIAL SESSIONS.

SEC. 23. Courts of Special Sessions shall have such jurisdiction of offenses of the grade of misdemeanors as may be prescribed by law.

ARTICLE VII.

STATE CREDIT NOT TO BE LOANED.

SECTION 1. The credit of the State shall not in any manner be given or loaned to or in aid of any individual, association or corporation.

POWER TO CONTRACT DEBTS.

SEC. 2. The State may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts; but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed one million of dollars; and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever.

SEC. 3. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

LIMITATION OF LEGISLATIVE POWER IN THE CREATION OF DEBTS.

SEC. 4. Except the debts specified in sections two and three of this article, no debts shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by law, for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay, the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within eighteen years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it at such election. On the final passage of such bill in either house of the Legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?"

The Legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability which may have been contracted, in pursuance of such law, shall remain in force and be irrevocable, and be annually collected, until the proceeds thereof shall have made the provision hereinbefore specified to pay and discharge the interest and principal of such debt and liability. The money arising from any loan or stock creating

such debt or liability shall be applied to the work or object specified in the act authorizing such debt or liability, or for the repayment of such debt or liability, and for no other purpose whatever. No such law shall be submitted to be voted on, within three months after its passage, or at any general election when any other law, or any bill, or any amendment to the Constitution, shall be submitted to be voted for or against.

SEC. 5. The sinking funds provided for the payment of interest and the extinguishment of the principal of the debts of the State shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for the specific purpose for which it shall have been provided.

CLAIMS.

SEC. 6. Neither the Legislature, Canal Board, nor any person or persons acting in behalf of the State, shall audit, allow, or pay any claim which, as between citizens of the State, would be barred by lapse of time. This provision shall not be construed to repeal any statute fixing the time within which claims shall be presented or allowed, nor shall it extend to any claims duly presented within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.

FOREST PRESERVE.

SEC. 7. The lands of the State, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed.

SEC. 8. The Legislature shall not sell, lease or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, the Cayuga and Seneca canal, or the Black River canal; but they shall remain the property of the State and under its management forever. The prohibition of lease, sale or other disposition herein contained, shall not apply to the canal known as the Main and Hamburg street canal, situated in the city of Buffalo, and which extends easterly from the westerly line of Main street to the westerly line of Hamburg street. All funds that may be derived from any lease, sale or other disposition of any canal shall be applied to the improvement, superintendence or repair of the remaining portion of the canals.

MAINTENANCE OF CANALS.

SEC. 9. No tolls shall hereafter be imposed on persons or property transported on the canals, but all boats navigating the canals, and the owners and masters thereof, shall be subject to such laws and regulations as have been or may hereafter be enacted concerning the navigation of the canals. The Legislature shall annually, by equitable taxes, make provision for the expenses of the superintendence and repairs of the canals. All contracts for work or materials on any canal shall be made with the persons who shall offer to do or provide the same at the lowest price, with adequate security for their performance. No extra compensation shall be made to any contractor; but if, from any unforeseen cause, the terms of any contract shall prove to be unjust and oppressive, the Canal Board may, upon the application of the contractor, cancel such contract.

IMPROVEMENT OF CANALS.

SEC. 10. The canals may be improved in such manner as the Legislature shall provide by law. A debt may be authorized for that purpose in the mode prescribed by section four of this article, or the cost of such improvement may be defrayed by the appropriation of funds from the State treasury, or by equitable annual tax.

ARTICLE VIII.

CORPORATIONS, HOW CREATED.

SECTION 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

DEBTS OF CORPORATIONS.

SEC. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

“CORPORATIONS” DEFINED.

SEC. 3. The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right

to sue and shall be subject to be sued in all courts in like cases as natural persons.

SEC. 4. The Legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The Legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

SPECIE PAYMENTS.

SEC. 5. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation, issuing bank notes of any description.

REGISTRY OF BILLS OR NOTES.

SEC. 6. The Legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

INDIVIDUAL RESPONSIBILITY OF STOCKHOLDERS.

SEC. 7. The stockholders of every corporation and joint-stock association for banking purposes, shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind.

INSOLVENCY OF BANKS, PREFERENCE.

SEC. 8. In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment, over all other creditors of such bank or association.

CREDIT OR MONEY OF THE STATE NOT TO BE GIVEN OR LOANED.

SEC. 9. Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation or pri-

vate undertaking. This section shall not, however, prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper. Nor shall it apply to any fund or property now held, or which may hereafter be held, by the State for educational purposes.

COUNTIES, ETC., NOT TO GIVE OR LOAN MONEY OR CREDIT—
LIMITATION OF DEBTS.

SEC. 10. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for State or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water shall not exceed twenty years and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipa-

tion of the collection of taxes, which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted. Whenever hereafter the boundaries of any city shall become the same as those of a county, the power of the county to become indebted shall cease, but the debt of the county at that time existing shall not be included as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

STATE BOARD OF CHARITIES.

SEC. 11. The Legislature shall provide for a State Board of Charities, which shall visit and inspect all institutions, whether State, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character, excepting only such institutions as are hereby made subject to the visitation and inspection of either of the commissions hereinafter mentioned, but including all reformatories except those in which adult males convicted of felony shall be confined; a State Commission in Lunacy, which shall visit and inspect all institutions, either public or private, used for the care and treatment of the insane (not including institutions for epileptics or idiots); a State Commission of Prisons which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors.

SEC. 12. The members of the said board and of the said commissions shall be appointed by the Governor, by and with the advice and consent of the Senate; and any member may be removed from office by the Governor for cause, an opportunity having been given him to be heard in his defense.

INSPECTION OF INSTITUTIONS.

SEC. 13. Existing laws relating to institutions referred to in the foregoing sections and to their supervision and inspection, in so

far as such laws are not inconsistent with the provisions of the Constitution, shall remain in force until amended or repealed by the Legislature. The visitation and inspection herein provided for shall not be exclusive of other visitation and inspection now authorized by law.

MAINTENANCE OF CHARITABLE INSTITUTIONS.

SEC. 14. Nothing in this Constitution contained shall prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper; or prevent any county, city, town or village from providing for the care, support, maintenance and secular education, of inmates of orphan asylums, homes for dependent children or correctional institutions, whether under public or private control. Payments by counties, cities, towns and villages to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control, for care, support and maintenance, may be authorized, but shall not be required by the Legislature. No such payments shall be made for any inmate of such institutions who is not received and retained therein pursuant to rules established by the State Board of Charities. Such rules shall be subject to the control of the Legislature by general laws.

COMMISSIONERS—TERMS OF OFFICE, ETC.

SEC. 15. Commissioners of the State Board of Charities and Commissioners of the State Commission in Lunacy, now holding office shall be continued in office for the term for which they were appointed respectively, unless the Legislature shall otherwise provide. The Legislature may confer upon the commissions and upon the board mentioned in the foregoing sections any additional powers that are not inconsistent with other provisions of the Constitution.

ARTICLE IX.

PROVISION FOR MAINTENANCE OF FREE SCHOOLS.

SECTION 1. The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.

UNIVERSITY OF THE STATE OF NEW YORK.

SEC. 2. The corporation created in the year one thousand seven hundred and eighty-four, under the name of The Regents of the

University of the State, of New York, is hereby continued under the name of the University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the Legislature, shall be exercised, by not less than nine regents.

COMMON-SCHOOL LITERATURE AND UNITED STATES DEPOSIT FUNDS.

SEC. 3. The capital of the common-school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenue of the said common-school fund shall be applied to the support of common schools; the revenue of the said literature fund shall be applied to the support of academies; and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common-school fund.

PROPERTY, CREDIT OR PUBLIC MONEY NOT TO BE USED.

SEC. 4. Neither the State, nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught.

ARTICLE X.

GOVERNOR MAY REMOVE CERTAIN OFFICERS.

SECTION 1. Sheriffs, clerks of counties, district attorneys, and registers in counties having registers, shall be chosen by the electors of the respective counties, once in every three years and as often as vacancies shall happen, except in the counties of New York and Kings, and in counties whose boundaries are the same as those of a city, where such officers shall be chosen by the electors once in every two or four years as the Legislature shall direct. Sheriffs shall hold no other office, and be ineligible for the next term after the termination of their offices. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff. The Governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to

such officer a copy of the charges against him, and an opportunity of being heard in his defense.

SEC. 2. All county officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of the respective counties or appointed by the boards of supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

DURATION OF OFFICE.

SEC. 3. When the duration of any office is not provided by this Constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

TIME OF ELECTION.

SEC. 4. The time of electing all officers named in this article shall be prescribed by law.

VACANCIES IN OFFICE.

SEC. 5. The Legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

POLITICAL YEAR.

SEC. 6. The political year and legislative term shall begin on the first day of January; and the Legislature shall, every year, assemble on the first Wednesday in January.

REMOVALS FROM OFFICE.

SEC. 7. Provision shall be made by law for the removal for misconduct or malversation in office of all officers, except judicial, whose powers and duties are not local or legislative and who shall be elected at general elections, and also for supplying vacancies created by such removal.

WHEN OFFICE DEEMED VACANT.

SEC. 8. The Legislature may declare the cases in which any office shall be deemed vacant when no provision is made for that purpose in this Constitution.

COMPENSATION OF CERTAIN OFFICERS.

SEC. 9. No officer whose salary is fixed by the Constitution shall receive any additional compensation. Each of the other State officers named in the Constitution shall, during his continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use any fees or perquisites of office or other compensation.

ARTICLE XI.

MILITIA.

SECTION 1. All able-bodied male citizens between the ages of eighteen and forty-five years, who are residents of the State, shall constitute the militia, subject, however, to such exemptions as are now, or may be hereafter created by the laws of the United States, or by the Legislature of this State.

PROVISION FOR ENLISTMENT.

SEC. 2. The Legislature may provide for the enlistment into the active force of such other persons as may make application to be so enlisted.

ORGANIZATION AND MAINTENANCE OF MILITIA.

SEC. 3. The militia shall be organized and divided into such land and naval, and active and reserve forces, as the Legislature may deem proper, provided, however, that there shall be maintained at all times a force of not less than ten thousand enlisted men, fully uniformed, armed, equipped, disciplined and ready for active service. And it shall be the duty of the Legislature at each session to make sufficient appropriations for the maintenance thereof.

OFFICERS TO BE APPOINTED BY THE GOVERNOR.

SEC. 4. The Governor shall appoint the chiefs of the several staff departments, his aides-de-camp and military secretary, all of whom shall hold office during his pleasure, their commissions to expire with the term for which the Governor shall have been elected; he

shall also nominate, and with the consent of the Senate appoint, all major-generals.

COMMISSIONED AND NON-COMMISSIONED OFFICERS, HOW CHOSEN.

SEC. 5. All other commissioned and non-commissioned officers shall be chosen or appointed in such manner as the Legislature may deem most conducive to the improvement of the militia, provided, however, that no law shall be passed changing the existing mode of election and appointment unless two-thirds of the members present in each house shall concur therein.

OFFICERS, HOW COMMISSIONED.

SEC. 6. The commissioned officers shall be commissioned by the Governor as commander-in-chief. No commissioned officer shall be removed from office during the term for which he shall have been appointed or elected, unless by the Senate on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the sentence of a court-martial, or upon the findings of an examining board organized pursuant to law, or for absence without leave for a period of six months or more.

ARTICLE XII.

PROVISION FOR ORGANIZATION OF CITIES, INCORPORATED VILLAGES, ETC.

SECTION 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments, and in contracting debt by such municipal corporations.

CLASSIFICATION OF CITIES, ETC.

SEC. 2. All cities are classified according to the latest State enumeration, as from time to time made, as follows: The first class includes all cities having a population of two hundred and fifty thousand, or more; the second class, all cities having a population of fifty thousand and less than two hundred and fifty thousand; the third class, all other cities. Laws relating to the property, affairs of government of cities, and the several departments thereof, are divided into general and special city laws; general city laws are those which relate to all the cities of one or more classes; special city laws are those which relate to a single city, or to less than all the cities of a class. Special city laws shall not be passed

except in conformity with the provisions of this section. After any bill for a special city law, relating to a city, has been passed by both branches of the Legislature, the house in which it originated shall immediately transmit a certified copy thereof to the mayor of such city, and within fifteen days thereafter the mayor shall return such bill to the house from which it was sent, or if the session of the Legislature at which such bill was passed has terminated, to the Governor, with the mayor's certificate thereon, stating whether the city has or has not accepted the same.

In every city of the first class, the mayor, and in every other city, the mayor and the legislative body thereof concurrently, shall act for such city as to such bill; but the Legislature may provide for the concurrence of the legislative body in cities of the first class. The Legislature shall provide for a public notice and opportunity for a public hearing concerning any such bill in every city to which it relates, before action thereon. Such a bill, if it relates to more than one city, shall be transmitted to the mayor of each city to which it relates, and shall not be deemed accepted unless accepted as herein provided, by every such city. Whenever any such bill is accepted as herein provided, it shall be subject as are other bills, to the action of the Governor. Whenever, during the session at which it was passed, any such bill is returned without the acceptance of the city or cities to which it relates, or within such fifteen days is not returned, it may nevertheless again be passed by both branches of the Legislature, and it shall then be subject as are other bills, to the action of the Governor. In every special city law which has been accepted by the city or cities to which it relates, the title shall be followed by the words "accepted by the city," or "cities," as the case may be; in every such law which is passed without such acceptance, by the words "passed without the acceptance of the city," or "cities," as the case may be.

ELECTIONS, HOW HELD.

SEC. 3. All elections of city officers, including supervisors and judicial officers of inferior local courts, elected in any city or part of a city, and of county officers elected in the counties of New York and Kings, and in all counties whose boundaries are the same as those of a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. The terms of office of all such officers elected before the first day of January, one thousand eight hundred

and ninety-five, whose successors have not then been elected, which under existing laws would expire with an even-numbered year, or in an odd-numbered year and before the end thereof, are extended to and including the last day of December next following the time when such terms would otherwise expire; the terms of office of all such officers, which under existing laws would expire in an even-numbered year, and before the end thereof, are abridged so as to expire at the end of the preceding year. This section shall not apply to any city of the third class, or to elections of any judicial officer, except judges and justices of inferior local courts.

ARTICLE XIII.

OATH OF OFFICE.

SECTION 1. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as shall be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contribute, or offered or promised to contribute any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote," and no other oath, declaration or test shall be required as a qualification for any office of public trust.

BRIBERY AND CORRUPTION.

SEC. 2. Any person holding office under the laws of this State, who, except in payment of his legal salary, fees or perquisites, shall receive or consent to receive, directly or indirectly, any thing of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is

to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offense of bribery.

OFFER OF BRIBERY A FELONY.

SEC. 3. Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such a bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it was tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

WITNESS.

SEC. 4. Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

FREE PASSES OR TRANSPORTATION, A MISDEMEANOR.

SEC. 5. No public officer, or person elected or appointed to a public office, under the laws of this State, shall directly or indirectly ask, demand, accept, receive or consent to receive for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or telephone rates, from any person or corporation, or make use of the same himself or in conjunction with another. A person who violates any provision of this section, shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the Attorney-General. Any corporation, or officer or agent thereof, who shall offer or promise to a public officer, or person elected or appointed to a public office, any such free pass, free transportation, franking privilege or discrimination, shall also be deemed guilty of a misdemeanor and liable to punishment except as herein provided. No person, or officer or agent of a corporation giving any such free pass, free transportation, franking privilege or discrimination hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of the same.

REMOVAL OF DISTRICT ATTORNEY.

SEC. 6. Any district attorney who shall fail faithfully to prosecute a person charged with the violation in his county of any provision of this article which may come to his knowledge, shall be removed from office by the Governor, after due notice and an opportunity of being heard in his defense. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this State, within such county, or of receiving bribes by any such person in said county, shall be a charge against the State, and their payment by the State shall be provided for by law.

ARTICLE XIV.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate and Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election of senators, and shall be published for three months previous to the time of making such choice; and if in the Legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people for approval in such manner and at such times as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of the Constitution from and after the first day of January next after such approval.

CONSTITUTIONAL CONVENTION.

SEC. 2. At the general election to be held in the year one thousand nine hundred and sixteen, and every twentieth year thereafter, and also at such times as the Legislature may by law provide, the question: "Shall there be a convention to revise the Constitution and amend the same?" shall be decided by the electors of the State; and in case a majority of the electors voting thereon shall decide in favor of a convention for such purpose, the electors of every

senate district of the State, as then organized, shall elect three delegates at the next ensuing general election at which members of the Assembly shall be chosen, and the electors of the State voting at the same election shall elect fifteen delegates-at-large. The delegates so elected shall convene at the capitol on the first Tuesday of April next ensuing after their election, and shall continue their session until the business of such convention shall have been completed. Every delegate shall receive for his services the same compensation and the same mileage as shall then be annually payable to the members of the Assembly. A majority of the convention shall constitute a quorum for the transaction of business, and no amendment to the Constitution shall be submitted for approval to the electors as hereinafter provided, unless by the assent of a majority of all the delegates elected to the convention, the yeas and nays being entered on the journal to be kept. The convention shall have the power to appoint such officers, employees and assistants as it may deem necessary, and fix their compensation and to provide for the printing of its documents, journal and proceedings. The convention shall determine the rules of its own proceedings, choose its own officers, and be the judge of the election, returns and qualifications of its members. In case of a vacancy, by death, resignation or other cause, of any district delegate elected to the convention, such vacancy shall be filled by a vote of the remaining delegates representing the district in which such vacancy occurs. If such vacancy occurs in the office of a delegate-at-large, such vacancy shall be filled by a vote of the remaining delegates-at-large. Any proposed constitution or constitutional amendment which shall have been adopted by such convention, shall be submitted to a vote of the electors of the State at the time and in the manner provided by such convention, at an election which shall be held not less than six weeks after the adjournment of such convention. Upon the approval of such constitution or constitutional amendments, in the manner provided in the last preceding section, such constitution or constitutional amendment, shall go into effect on the first day of January next after such approval.

CONSTITUTIONAL AMENDMENTS TO SUPERSEDE AMENDMENTS BY
LEGISLATURE.

SEC. 3. Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the Legislature, coincidentally submitted to the people for approval at the general election held in the year one thousand eight hundred and

ninety-four, or at any subsequent election, shall, if approved, be deemed to supersede the amendment so proposed by the Legislature.

ARTICLE XV.

SECTION I. This Constitution shall be in force from and including the first day of January, one thousand eight hundred and ninety-five, except as herein otherwise provided.

Done in Convention at the Capitol in the city of Albany, the twenty-ninth day of September, in the year one thousand eight hundred and ninety-four, and of the Independence of the United States of America the one hundred and nineteenth.

In witness whereof, we have hereunto subscribed our names.

JOSEPH HODGES CHOATE,
President and Delegate-at-Large.

CHARLES ELLIOTT FITCH,
Secretary.

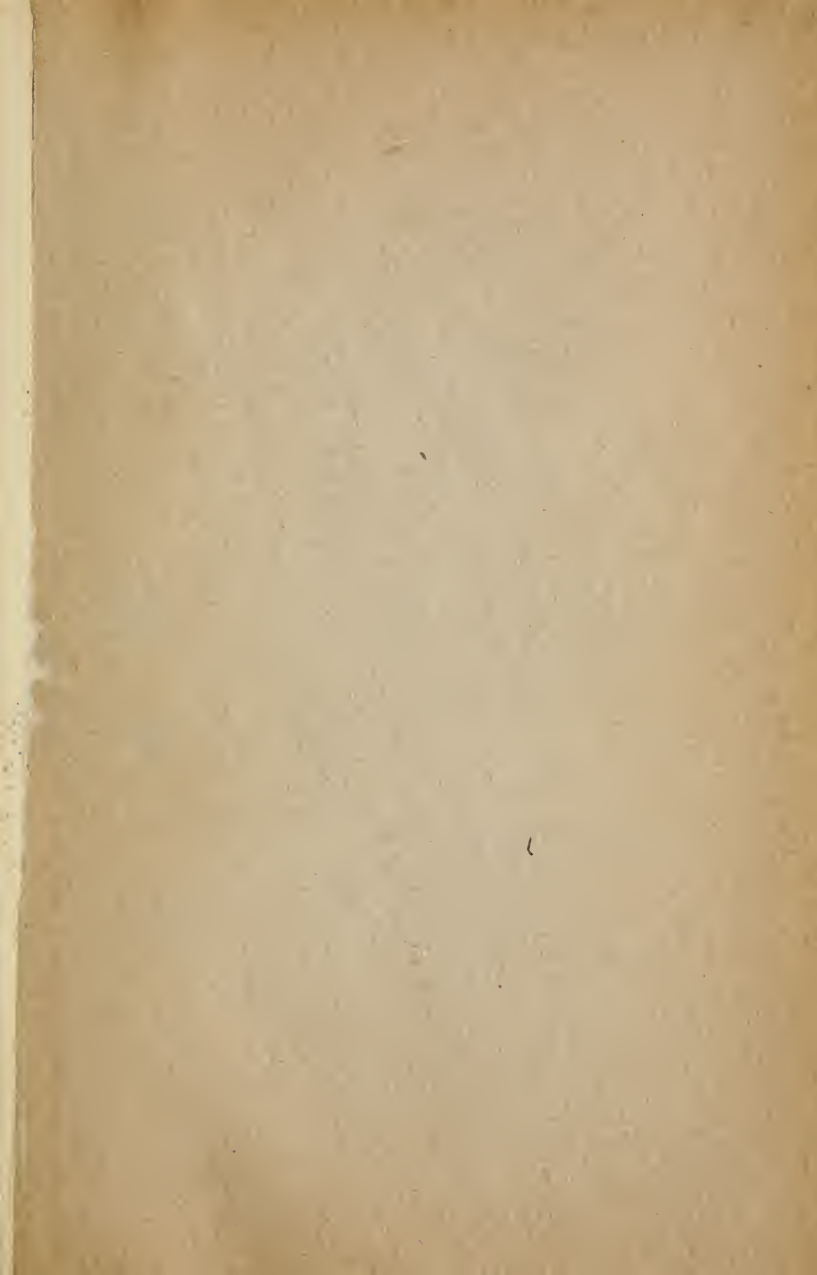
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